

## The complaint

Mr T has complained about a policy he held with Aviva Life & Pensions UK Limited ('Aviva'). The reviewable whole of life 'Lifespan' policy covered life and critical illness. There were administrative errors and Mr T was misinformed about the surrender value of the policy.

## What happened

In November 2022 the critical illness cover ('CIC') was removed from the policy in error. Aviva added CIC back on to the policy at Mr T's request on 28 February 2023. It paid him £100 for the trouble Mr T had been caused. This reinstatement meant the cost of the cover went back to how it was before the accidental deletion.

In March 2023 Mr T wanted to surrender the policy and completed a surrender request. When the surrender request was processed, it was established that the policy had no surrender value.

Mr T was unhappy that he hadn't previously been told the policy didn't have a surrender value and that the documentation stated he could cash in the policy. He complained to Aviva. In its response of 20 April 2023 Aviva said that during the call of 30 March 2023 he should have been told there wasn't any surrender value to the policy. And with regard to the valuation of the policy, this was never guaranteed and was subject to change. It said this had been explained to him by several call handlers on 19 April 2023 and that the plan had nothing payable on it.

It offered Mr T £25 for the inconvenience caused.

Mr T remained unhappy and brought his complaint to this service. Our investigator who considered the complaint thought Aviva's offer was fair. She said;

- Because of changes taking place with the policy Aviva couldn't give Mr T a surrender quote over the phone when he called in March 2023. But it was able to once Mr T had made a surrender value request.
- Regarding the surrender value no longer being in place once the surrender value request was received by Aviva, this was because the quote given was done so before the CIC was reinstated in February 2023. Cover for the policy was paid for by accumulation units when premiums paid were insufficient. This didn't affect the cover value but did reduce the surrender value.
- The CIC cost was higher than the cost of life cover and when added together this was more than the premiums being paid which resulted in reducing the fund value to a negative amount. The reinstatement of the CIC took place at a similar time to Mr T wanting to surrender the policy and by the time Aviva had processed the surrender request the CIC had been reinstated reducing the fund value to a negative balance.
- The policy particulars had laid out that this was how the plan worked and there wasn't any guarantee there would be a surrender value. The surrender value would only be paid out if there was no debt at the time of the surrender. But because of the

cover on the policy, it was in negative balance. The plan was invested in a unit linked fund which mean the value of the fund could go up and down which wasn't unusual for an investment vehicle.

Mr T didn't agree. He had asked for a breakdown of all charges taken out of his policy and how much the monthly charges were before and after adding the CIC plus a timeline of events effecting those charges. He couldn't see how adding CIC back to the policy could consume £2,000 as well as his monthly contributions in a year.

As the complaint couldn't be resolved, it has been passed to me for a decision.

### **What I've decided – and why**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

After doing so, I've reached the same conclusion as the investigator and broadly for the same reasons. I'll explain why.

As a background, reviewable whole of life policies are usually reviewed on the tenth anniversary, the fifteenth and periodically thereafter dependent upon the policy. This is to ensure that the policy premiums remain sufficient to cover the costs of the benefits of the policy. If they are not, at the time of the review, the policyholder can either increase the premiums they pay or reduce the benefit receivable.

It's not in dispute that in November 2022 Aviva removed the CIC element of the policy in error but added it back at the end of February 2023. I can see in its letter to Mr T of 21 February 2023 Aviva said that Mr T would receive confirmation that the CIC had been added back within the next ten working days.

So, any statements or surrender values Mr T may have received during the time after the CIC was removed and before it was reinstated wouldn't have been a true reflection of the surrender value. And that would also apply to after it was known that the CIC was to be added back and during the period that reinstatement was in progress but not yet completed, so would apply to any surrender valuations Mr T may have received over the phone during this time.

In correspondence with this service Aviva has explained that it hadn't actually done anything wrong if its call handler hadn't explained to Mr T that there wasn't any surrender value. It said this wasn't always apparent on its systems – which seems to be the case here – and manual calculations need to be done. But I appreciate that this must have been confusing for Mr T as he thought there was a surrender value.

Mr T wanted to surrender the policy and called Aviva on 30 March for more information about this but wasn't told during this call there was no surrender value for the policy. Mr T applied to surrender the policy on 31 March 2023 but was then told during a call back on 19 April that the surrender value was showing as a negative of £710.62. Mr T referred to a valuation he had been given of £1,800 however, I note it was explained during the call that a valuation could be positive, but a surrender value could be negative.

Mr T sought clarification about this, and Aviva wrote to him on 25 April 2023 and included an updated policy valuation. Life cover in the event of Mr T's death was £42,395 and the same for the reinstated CIC. At the time the fund value was £740.36, and the regular monthly premiums were £36.43. The surrender value had been updated to reflect the reinstatement of the CIC and showed a negative figure of £602.64.

Aviva wrote to Mr T on 12 June 2023 to confirm that the policy value was now less – at zero – than the figure he was quoted in December 2022 because of the cost of the CIC which had been added back after being removed in November 2022 in error. During that time – and which would have included any December 2022 valuation – CIC wasn't being charged for. But once it was added back the cost of the CIC was also added back and the new value reflected the correct charging of the policy. The cost of the life cover and CIC together were more than the premium that was paid each month which resulted in the reduction of the fund value to zero.

The premiums Mr T paid were split between two elements, the cost of the cover itself and also for investment purposes by buying units in a fund. This savings component, the investment, can be withdrawn and which won't affect the pay-out, but it is tied to the policy to help offset the rise in premiums as the policyholder grows older. In this case, I think it seems likely that in effect, there was a cost associated with providing CIC during the period when it was removed from the policy in error. This cost created a debt on the policy when the CIC was reinstated.

And Mr T's policy was set up so that it took accumulation units from the underlying investment to pay for the cover and any outstanding debt when the monthly premiums paid were insufficient to pay for that cover. As explained, this in itself doesn't affect the cover value of the policy but does reduce the surrender value due to units being sold to repay any debt and make up the difference between the premiums being paid and the cost of providing cover. This can reduce the surrender value to zero which is what has happened in this case. The terms and conditions of the policy explain this under;

#### **'Surrender Options**

- 22      If the Premium has been paid for a period of not less than two years then the Policy shall acquire a surrender value and subject to clause 34 below the Assured may elect to surrender the Policy at any time thereafter for a cash sum equal to the full value of the Accumulation Units and an appropriate percentage (as determined by the Company) of the value of the Capital Units allocated to the Policy less any outstanding Total Debt...'

Mr T has told us that this document wasn't given to him at the point of sale but that is the subject of a complaint being dealt with separately. I have to deal with a complaint based on the information and evidence presented to me. And in this case, I am satisfied that the terms I have referred to above, relate to Mr T's policy that is the subject of this particular complaint.

I can understand Mr T's frustration. He called in March 2023 about the surrender as he had seen his policy had some value as per his December 2022 statement. But after completing the surrender request it became clear that the policy had no surrender value. The underlying reason for this was the reinstatement of the CIC that Aviva had removed in error. But along with the reinstatement came the backdated monthly cost of providing the cover, which for the reasons given above impacted on the surrender value to zero.

However, Aviva has, I think, reasonably explained policy values are never guaranteed and has also offered Mr T £25 for the inconvenience caused, which I think is fair and reasonable under the individual circumstances of the complaint. Because of this I won't be asking Aviva to do anything more. It is for Mr T to decide whether to accept Aviva's offer.

Taking all of the above into account, I don't uphold Mr T's complaint. No doubt Mr T will be disappointed with the outcome, it's clear he feels strongly about his complaint, but I hope I have been able to explain how I have reached the decision that I have.

I note that Mr T wants a breakdown of all charges taken out of his policy and how much the monthly charges were before and after adding back the CIC plus a timeline of events effecting those charges. I have asked the investigator to contact Aviva to request those. If Mr T has any concerns about the charges incurred, he should raise that with Aviva in the first instance.

### **My final decision**

For the reasons given, I don't uphold Mr T's complaint about the surrender value of his policy held with Aviva Life & Pensions UK Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr T to accept or reject my decision before 22 August 2024.

Catherine Langley  
**Ombudsman**