

## **The complaint**

Mrs H and Mr W are unhappy that Aviva Life & Pensions UK Limited have declined a claim they made on a life insurance policy.

## **What happened**

Mr W has a life insurance policy which will pay a benefit for terminal illness. In 2023 Mr W made a claim on the policy following a diagnosis of a heart condition. He was also being investigated for vascular dementia.

Aviva declined the claim because they said that the policy terms and conditions weren't met. Mr W didn't agree and complained to Aviva. They maintained their decision to decline the claim and so Mr W complained to the Financial Ombudsman Service.

Our investigator looked into what happened and didn't uphold the complaint. She thought Aviva had acted fairly based upon the available medical evidence and the policy terms.

Mr W didn't agree and asked an ombudsman to review his complaint. He said his health had recently worsened.

## **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.

The relevant rules and industry guidelines say that Aviva has a responsibility to handle claims promptly and fairly. And, they shouldn't reject a claim unreasonably.

The policy schedule says:

"We'll pay out a cash sum if a life insured is diagnosed with an illness which is predicted to cause death within 12 months. This benefit doesn't apply in the last 18 months of the policy".

And the more detailed plan conditions say:

"Terminal illness benefit will be payable where, other than within eighteen months prior to the end date, the life insured is diagnosed as suffering from an advanced or rapidly progressing and incurable condition ('the terminal illness') such that the life expectancy of the life insured is no greater than twelve months from the date the condition is notified to us by the planholders. In determining that diagnosis, we will consider the views of the life insureds medical adviser; consult the views of our medical adviser; and take the typical life expectancy for someone diagnosed with the terminal illness into account".

I'm very sorry to hear of Mr W's circumstances and I have a lot of empathy for what he's said about the impact of his ongoing medical conditions. I hope that Mr W is continuing to recover well from his most recent surgery.

I appreciate that my decision will be very disappointing for Mr W but I'm not upholding his complaint because:

- Mr W provided evidence from his consultant cardiologist which said that Mr W had a reduced life-expectancy since his diagnosis of ischaemic heart disease. He also said that it would be difficult to estimate life expectancy accurately but it could be approximately 5 years less than what would be expected for a man of Mr W's age in the country Mr W lived in. The consultant didn't provide evidence which confirmed Mr W had a life expectancy of less than 12 months. I can also see that Aviva took into account Mr W's age and life expectancy when reaching that conclusion. So, I think Aviva reasonably concluded that the policy terms and conditions weren't met.
- Mr W is having ongoing investigations in relation to dementia which could also impact his life expectancy. However, at the time Aviva declined the claim Mr W didn't have a diagnosis. In July 2024 Mr W confirmed in response to our investigator that he was awaiting further information and an appointment. Based on the evidence available to me I don't think Aviva unreasonably declined the claim as the medical information in relation to dementia didn't confirm a diagnosis of the condition.
- I've thought about whether it would be fair and reasonable for Aviva to depart from the policy terms in the circumstances of this case. Bearing in mind the available medical evidence, I don't think there are compelling reasons why it would be fair and reasonable to direct Aviva to pay the policy benefit when the policy terms are not met.

### **My final decision**

I'm not upholding this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs H and Mr W to accept or reject my decision before 9 December 2024.

Anna Wilshaw  
**Ombudsman**