

The complaint

Mr P and Mr G as trustees of the R Trust complain that Aviva Life & Pensions UK Limited is not honouring the claim amount that is due to the trust.

What happened

The late Mrs R had a Reviewable Whole of Life policy with Aviva, which had been taken out with a different firm in 1994. The policy was reviewed over the years, and in 2019 Mrs R was paying £1,980.64 per year for £50,000 life cover.

On 30 April 2019, Aviva reviewed Mrs R's policy and concluded that *"to maintain your existing level of cover, you will need to increase your total premium with effect from 9 June 2019"*. The letter then showed a number of options – this included requesting for cover to be reduced (either to allow the policy to last 10 years or for life) or increasing the premium to £11,252 per annum.

The letter also said that if Mrs R didn't respond, Aviva would *"automatically reduce your level of cover to £11,884"*.

A few weeks after this letter, Mrs R called Aviva with the help of Mr P, her son. During this call, they asked Aviva whether Mrs R would still benefit from the life cover of £50,000 if she paid the premium of £1,980.64. Aviva explained that she would, unless she received a letter outlining that the premium was no longer enough to maintain the life cover. The call handler discussed the review in more detail and the reasons why a policy might fail a review. Mr P then confirmed his understanding that as long as Mrs R paid £1,980.64 the policy would retain the same sum assured of £50,000 and Aviva confirmed this was correct.

Shortly after this, Mrs R paid the premium. However, Mrs R then became aware that what she and her son had understood from the telephone call was incorrect – the premium Mrs R had paid was not enough to maintain the cover of £50,000. So Mrs R complained.

Aviva looked into her complaint but didn't agree to uphold it. In short, it agreed that she had been given wrong information on the phone – but confirmed that she had previously been sent a review letter which set out all the information she needed about how to maintain the cover of £50,000. It agreed to offer her some compensation for the poor service but said it couldn't agree to allowing her to keep the cover of £50,000 for a premium of £1,984 – although it would give her more time to decide what she wanted to do. There was some further correspondence between Aviva and Mrs R, but its position remained the same.

Mrs R referred her complaint to the service. During our consideration of the complaint, Mrs R sadly passed away. Since the increased premium was never paid on the policy, Aviva was only offering to pay out the reduced sum assured of £11,884. As a result of this service's investigation, that amount has not yet been paid.

One of our investigators looked into the complaint but didn't think it should be upheld. In

summary:

- He confirmed that this was reviewable whole of life policy and explained what this meant. He referred to previous reviews, which confirmed that premiums didn't need to change – and referred to the letter in April 2019 which explained that the policy had failed a review and changes were required.
- He considered there was no legal agreement or variation of the terms. The call-handler ought to have seen that a review letter had been sent to Mrs R and this was a mistake. But she was very clear that the sum assured could be reduced as a result of a failed policy review.
- The investigator explained that ultimately, what should've happened is that Mrs R should've been told she needed to pay a higher premium on the phone.
- He agreed that they received poor service for which the compensation offered by Aviva (£300) was fair and reasonable.

Mr P didn't agree. He said there was a "legally completed transaction" – Aviva's employee "agreed to a reduction of their proposed annual premium to maintain the death benefit at £50,000". He said that Mrs R acted on this agreement and paid the required premium. He said that Aviva was liable for the actions of their employees and that the employee had agreed on the call that cover of £50,000 would be provided for the premium of £1,980.

He also referred to previous letters sent from Aviva when it took over the administration of the policy which said that the terms and conditions of the policy wouldn't change.

As an agreement couldn't be reached, the case was passed to me to decide. Mr P provided some final submissions.

- Having received the call recording, he said it "categorically" showed that "Aviva accepted the premium remaining at £1,980.64 for £50,000 of life cover".
- The compensation they were offered for the poor service was not accepted as settlement for the complaint they had raised.
- He didn't agree with the investigator that Aviva wouldn't discuss policy changes over the phone – he said this was the norm with organisations that deal with insurance matters.
- He said the call handler at Aviva would've had "all the relevant renewal information" on screen during the call.
- He referred to what Aviva had said when taking over administration of the policy that "there will be no changes to your policy terms and conditions (unless you have an FRA) your policy number, features, benefits or premiums". He said that this was a clear statement.

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.

Having done so, I'm sorry to disappoint Mr P, but I agree with the investigator and for broadly the same reasons. I acknowledge Mr P has been waiting a very long time for this decision.

It's important to highlight that the policy Mrs R had was a Reviewable Whole of Life policy. This meant that the policy was subject to regular reviews, as specified in the terms, which determined whether or not changes were needed to the premium or sum assured. In other words, the reviews were an integral part of the terms and conditions of the policy, without which the policy would not be the same.

The policy had been subject to reviews before – in 2018 the review confirmed that the benefits under the policy would be guaranteed for another year, until the next review. No changes were required – although the letter set out adjustments which Mrs R *could* make if she wanted the policy to be sustained for another ten years or for life. Mr P has made reference to 2018 and drawn comparisons with what happened in 2019. But in 2018 there was no verbal agreement or otherwise to keep the premium the same – a review letter was sent which said no changes were needed. So Mrs R was entitled to pay the same premium for another year and still benefit from the same level of cover. What that letter did highlight is that the following year, the policy would likely fail a review. And that's what happened.

The situation in 2019 therefore changed. When the policy was reviewed again in April 2019, the premium Mrs R was paying was no longer enough to guarantee the life cover until the next review. As Aviva has explained at various points, the premium Mrs R was paying only covered about 4 months of charges – the rest would need to be deducted from the fund value. This meant that by the end of that policy year, the fund would be entirely depleted and the policy would lapse.

The April 2019 letter is clear in its language and the options available to Mrs R – none of those options involved keeping the premium and sum assured the same. Mrs R needed to either choose to increase the premium, or reduce the sum assured.

Mr P has made comments about whether or not the phone call they had in May 2019 with Aviva formed a new agreement. It isn't my role to determine whether or not a new contract was agreed during that call – although I'd question whether the call handler had authority to enter Aviva into a new contract and, certainly, whether she had any intention to do so. However, my role is to consider what is fair and reasonable in the circumstances – and I'm not persuaded that it would be fair and reasonable to conclude that the call handler had intentionally agreed to vary the terms contained in the review letter Mrs R had received.

I've listened to the call, and I'm satisfied this isn't what the call handler was doing. It's not clear to me why she didn't check whether a review letter had been sent or what it said, and as a result her communication wasn't as clear as it should've been. I understand Aviva offered compensation for that and I agree that's fair.

But she did specifically refer to review letters setting out changes to the policy. At this point, Mr P could've interjected and specifically asked about the letter they had just received – that was clearly the type of letter the call handler was referring to. But this was never mentioned in that call. The rest of the conversation is carried out as if the failed review letter didn't exist – and on that basis, what the call handler said was accurate: in the absence of a review letter saying otherwise, Mrs R's policy remained on the same terms.

I understand that Mr P profoundly disagrees – but I'm not at all persuaded it would be reasonable to conclude that this conversation with a call handler from Aviva outweighed the contractual review letter that was sent to them and which contained all of the options available to Mrs R at that time. Furthermore, as I've said, the call handler *did* specifically

refer to review letters – and it's therefore obvious to me that those letters are the key documents that set out the terms of the policy, including what the premium is and what the life cover is. In my view, before proceeding on the basis that the existing premium would be sufficient, the April 2019 review letter should've been mentioned and discussed, especially because, as I've said, the call handler talked about reviews and review letters.

Mr P has also made reference to previous letters sent to him from Aviva – my understanding of his submissions is that those letters also created an obligation on Aviva not to change the terms of the policy. I'm not persuaded by these arguments either.

That letter from June 2017 that Mr P refers to was about the transfer from Friends Life to Aviva. And the specific part of this letter that Mr P refers to says:

“Apart from changing the provider of your policy to Aviva Life & Pensions UK Limited there will be no change to your policy terms and conditions and any benefits will not change as a result of these transfers.” (my emphasis).

I'm satisfied that this letter is merely explaining that the transfer won't, of itself, cause any changes to the policy. This was accurate information. But the “terms and conditions” of the policy included reviews – as I've said above, the reviewable nature of the policy Mrs R had was a key feature of it. The possibility of changes being required to the policy as a result of these reviews was, therefore, an inherent feature of the policy. In my view the statement above specifically says that these terms would not change – in other words, the policy remained exactly the same: a reviewable whole of life policy.

In summary, I accept that the initial call in May 2019 caused some confusion, but this was acknowledged and put right by Aviva within a short timeframe – and Mrs R had opportunities to pay the required premium to maintain the level of cover at £50,000. As she did not do so, the value of the life cover was reduced and this is now the amount that is payable. I understand this will be disappointing for Mr P and Mr G, but for the reasons I've given, I'm not persuaded this complaint should be upheld.

My final decision

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P and Mr G as trustees of the R Trust to accept or reject my decision before 2 July 2025.

Alessandro Pulzone
Ombudsman