

The complaint

Mr K is unhappy with Aviva Life & Pensions UK Limited's decision not to allow him to increase the level of protection under his income protection policy.

What happened

Mr K has income protection with Aviva. When he first took the policy, it was with another insurer. However, Aviva took over the responsibility as Mr K's insurer some time ago.

Mr K said he called Aviva in March 2024 to discuss increasing his level of cover so that it accurately reflected his salary. Mr K said he was aware that Aviva (as the new insurer) didn't offer cover for his profession, however, because he already had an existing policy he didn't see there being an issue with making any changes to it. Mr K would like Aviva to allow him to make the necessary changes to his existing policy by honouring the quote it provided in March.

Aviva said it will not do what Mr K has asked. It said it'll continue to provide cover as part of the legacy policy incepted by the previous insurer, but it's made a commercial decision to no longer accept liability to provide cover for his profession moving forward. Aviva explained this means it won't incept new policies, or permit changes to legacy policies, that alter the scope of cover in the way Mr K would like it to. Aviva maintained its position to decline Mr K's request. Aviva recognised it'd made a mistake in providing him with a quote in March and so offered him £150 compensation as an apology.

Our investigator agreed that Aviva had declined Mr K's request fairly as Aviva had provided evidence to support its decision. She explained the policy terms also support that Aviva retain the right to exercise its discretion on that point. Overall, she felt £150 compensation fairly reflected the distress and inconvenience caused by mistakenly issuing the quote.

Mr K disagreed with her opinion. In summary, Mr K said Aviva unfairly declined his guaranteed insurability option; that he should be allowed to make the changes because his reasons for doing so qualify as a life event; and that additional underwriting was not needed, or relevant, as he doesn't pose an increased risk to Aviva considering he already holds the policy. Mr K also wants Aviva to backdate the policy to accurately reflect when his salary increased. And so, it's now for me to make a final 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.

Having done so, I've decided not to uphold it. My reasons for doing so are the same as those already given by our investigator. In short, any changes requested are subject to Aviva's permission being granted. That's Aviva's commercial right as the insurer and I think it's exercised it fairly in the circumstances of Mr K's complaint. I'll explain why.

The policy terms say;

“You can make various changes to your membership.

At any time you may write and ask us to change the terms of your membership. We will consider your request at our reasonable discretion. If you ask us to increase the registration benefit you have, we can ask you to give us extra medical, financial, or other information to allow us to consider your request”

I've highlighted this as I think it makes Aviva's intention clear that Mr K was able to ask Aviva to increase his level of benefit, however, it's not guaranteed Aviva will grant his request. Mr K has made arguments about a guaranteed insurability option, however, I've not seen any evidence that's relevant in these circumstances. I say that because there is no guaranteed insurability provision in his policy that persuaded me Aviva should automatically accept his request.

Mr K's made other arguments about this term being too ambiguous, in particular, Aviva's reasonable discretion. Mr K explained that I should consider contra preferentum in the circumstances. That's to say that where there is ambiguity, I should consider the term in his favour. But I don't consider the term to be ambiguous. I should say this isn't an unusual term as insurers will, much of the time, want to carefully consider this type of request and whether it impacts the risk of on-going cover.

I've thought carefully about whether Aviva's exercised reasonable discretion here and I'm satisfied it has. I say that because the evidence I've seen supports its position that it no longer offers cover for Mr K's occupation. Aviva's within its commercial right to make that decision. Aviva explained it will continue to provide Mr K cover as he has a legacy policy agreed by the previous insurer, however, it won't offer any new policies, or allow existing consumers to make the changes Mr K has requested. And so, I don't think it's treating Mr K unfairly as this is now its intended approach to effectively limit its risk for his occupation, rather than singling him out.

I understand Mr K's point that he already has the policy and therefore there was no increased risk, or need to involve the underwriters with his request, but I find it unpersuasive. Aviva is able to use its reasonable discretion to decide how best to consider Mr K's request and it doesn't surprise me that this was referred to the underwriters for a decision. That's because I'm persuaded requests of that nature would have an impact on the consumer's risk profile as in the event of a qualifying claim, the insurer would have to pay a higher benefit amount. This would also affect the premium a consumer would have to pay. And so, I find it reasonable that Aviva referred to its underwriters.

Aviva accepted it made an error by providing a quote for the increased cover, but that doesn't mean it should be forced to honour it. Aviva explained the quote would have always been subject to further consideration, if accepted, and that its underwriting team would have declined the request. And given what I've just explained, I'm inclined to agree with what it's said about that. In any event, Aviva offered Mr K £150 compensation and I too think that fairly reflects the loss of expectation he experienced. And so I make no further award here.

My final decision

For the reasons I've explained, I don't uphold Mr K's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 6 April 2025.

Scott Slade

Ombudsman