DRN-5344530

The complaint

Mrs B is unhappy as she doesn't think that Aviva Life & Pensions UK Limited ('Aviva') has correctly administered the reviewable whole of life policy she holds with it.

What happened

I've outlined what I think are the key events and points involved in the complaint below.

Mrs B took out a reviewable whole of life policy – the Directions Plan – in 1993 with Friends Provident, although Aviva is now responsible for this complaint so I will refer to it throughout. The initial monthly premium and sum assured were respectively £15 and £96,600. The policy was subject to reviews, the first of which would take place on the tenth policy anniversary and subsequent reviews were then every five years until the insured's seventieth birthday, after which it would be annually.

The 2003 and 2008 review letters said that reviews would help identify if there was a need to adjust the life cover provided to ensure it continued to provide the level and type of benefits Mrs B wanted. These reviews 'passed', so no changes were needed to the premium and sum assured.

The 2013 review letter explained that Aviva had reduced its projected investment growth rate assumptions – which it said are estimates that aren't guaranteed – to reflect economic conditions and the prospect of lower future returns. And while this reduction means Mrs B might have to pay more or reduce her cover now, it will reduce the risk of having to do this in future, if returns are lower. Aviva went on to confirm it would need to make some changes at this review to ensure it could carry on providing Mrs B with the same level of cover. And she was given the option to keep her existing £15 premium the same for a reduced the level of cover of just over £54,500 (the default option), or to increase her premium to £32.41 and keep her level of cover the same.

Aviva wrote to Mrs B again in October 2013, reminding her that its review meant it would need to make changes to her policy. It said its calculations are based on the policy fund value and premiums she will pay. And the default option was then seemingly applied, which meant Mrs B's sum assured was reduced for the existing premium.

The 2018 review 'passed', so no changes were needed to the premium and sum assured. In addition to the information provided in the previous reviews, the 2018 review also said, amongst other things, that the monthly cost of cover is met by cashing in units held, the cost will vary each month as it depends on the policyholder's age and on the gap between the death benefit and current fund value and values can go up or down depending on performance which isn't guaranteed. And it said that in future Aviva may ask Mrs B to make changes to the premium or level of cover if the growth rate it used when carrying out reviews hasn't been achieved.

The 2023 review letter provided similar information about the policy to that above. Although Aviva said it would need to make some changes to Mrs B's cover and/or premium to ensure it could carry on providing her with the same level of cover, as her current premium and

estimated fund value wasn't enough for it to continue providing this. Mrs B was given the option to keep her existing £15 premium the same for a reduced the level of cover of just under £16,200 (the default option), or to increase her premium to £58.64 and keep her level of cover the same. And Aviva said that in the future it may ask Mrs B to make changes to these again if the growth rate it used carrying out reviews has not been achieved.

In the meantime, Mrs B's November 2023 annual statement set out, amongst other things, that her current monthly premium was £15, for a sum assured of just over £54,500 and that the average monthly cost of her cover was £19.16 along with some additional administration charges it set out. Aviva said that the monthly life cover cost is taken from the investment and the amount paid is based on age and will generally go up each year as the insured gets older. It said that its charges start off lower to provide cover for the lowest price. But as someone gets older it becomes more expensive to have the same level of cover, so the cost goes up. This means premiums may need to go up at a future review to keep the same level. And this is particularly true if there is a high level of cover. Aviva said that Mrs B didn't have to wait until reviews the make changes though. For example, she could reduce her benefits and/or increase her premiums. And that by doing this she could limit the impact of future reviews and she should get in touch if she wants more information.

The default option was seemingly applied and Mrs B's sum assured was reduced to just under £16,200 for the current £15 premium.

In February 2024, Mrs B complained to Aviva that she has received another unfavourable review, that her current sum assured is now significantly lower than the original amount and she feels it is treating her unfairly.

Aviva sent its final response letter not upholding Mrs B's complaint. Unhappy with this, Mrs B referred her complaint to our Service and she added, amongst other things, that:

- She is disappointed with, and worried and saddened by, the significant reductions in cover and requested premium increases, which she can't afford. Mrs B said this has caused her stress and anxiety. And that she is concerned the next review will leave her with little to no cover, which will mean the premiums she has paid of around £6,000 will be wasted instead of providing cover for her children if she passes away.
- In July 2024 she obtained a quote for level cover with Aviva for £22.37 per month and a sum assured of £50,000. In light of this it doesn't make sense that Aviva has asked her for over £58 per month to maintain the cover level on her existing policy, which at just over £54,500 is only slightly higher than that given in the quote. Mrs B said she's unlikely to keep her Aviva policy and that she'd like a refund of premiums to allow her to go elsewhere.
- Mrs B would like a detailed explanation of how the huge drop in cover happened, beyond just being told this is down to investment performance, the latter of which she had no idea would turn out to be so poor. The calculations behind the reviews are the cornerstone of her concerns, being what resulted in the reductions in her cover. And she believes this has dropped as her policy is a historic one that is too expensive for Aviva to maintain and this has used been to her detriment.

One of our Investigators reviewed the complaint and said they weren't asking Aviva to do anything. In respect of the reviews, they said the plan is reviewable as per the policy terms. That we aren't able to question Aviva's review calculations which are done by actuaries. And that it's impossible to compare Mrs B's Aviva policy with the quote she has recently obtained, given these depend on the individual's circumstances, the policy terms and type. Our Investigator said Aviva ought reasonably to have known since likely around 2009 though that significant changes would likely be needed to the premiums or level of cover as Mrs B got older, as the cost of cover had started to outweigh the premiums paid. And they weren't

persuaded Aviva's correspondence met regulatory obligations and standards of good practice. But our Investigator said that, even if Aviva had provided Mrs B with the information it should have, on balance they weren't persuaded she would have done anything differently.

Mrs B didn't agree. She maintained her position and asked for an Ombudsman to consider her complaint.

Because no agreement could be reached, the case 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.

Having done so, while I understand Mrs B will be disappointed, I'm not asking Aviva to do anything for the following reasons, which are largely the same as those given by our Investigator.

While I've carefully considered the entirety of the submissions the parties have provided, my decision focuses on what I consider to be the central issues. The purpose of my decision isn't to comment on every point or question made, rather it's to set out my decision and reasons for reaching it.

In deciding this complaint and reaching my conclusions I've taken into account the law, any relevant regulatory rules including the principles and good industry practice at the time. And including, amongst other things:

- The FCA's Principles for Businesses, in particular Principle 6 and Principle 7 (PRIN).
- The FCA's Conduct of Business Sourcebook (COBS), in particular COBS 2.1.1R(1) and COBS 4.2.1R(1).
- The FCA's Final guidance on the "Fair treatment of long-standing customers in the life insurance sector" (FG16/8).

What is the fair and reasonable outcome in the circumstances of this complaint?

I can see that the applicable policy terms set out, in summary, that the plan is reviewable and that if Aviva's actuary determines the benefits can't be maintained until the next review then it can increase the premium or reduce the level of cover. So Aviva is entitled to review the policy, including the premium and cover level, in the way it has. And, while I appreciate Mrs B's position, I wouldn't expect Aviva to provide its review calculations as these are considered commercially sensitive. I've seen no evidence that the premium increase requested in this case wasn't a legitimate exercise of Aviva's commercial judgement. It was entitled to take a reasonable view of the risk posed to it and put a price on that risk. And I think it has done so following a typical process, run by industry professionals.

I think it's helpful at this point though if I explain more about how the plan works and what I think Aviva should have done, if anything. The key feature of this plan is that part of the premiums Mrs B was paying throughout the years were to be invested to pay for the increasing costs of cover later in life. This is because for these types of policies, there's an increased likelihood of increasing cover costs as the policyholder gets older. While Mrs B is unhappy with the effect of these increasing costs on the value of the policy, these are simply an inevitable consequence of the policy becoming more expensive as the policyholder gets

older. This is very typical for these types of policies. It is also what allows these to be more affordable at the outset.

In the early years, when cover costs are low, part of the premiums are invested to build up a fund that can be used to help pay for the increasing cover costs in later years. At this stage, the premiums can meet the costs of the cover on their own. However, if the premiums remain at the same level, there inevitably comes a point where the cover costs will exceed the monthly premium and units in the investment fund need to be sold to meet the shortfall, reducing the investment fund value over time – unless the fund's growth outpaces the rise in cover costs.

Eventually, regular increases in the cost of cover will outpace the growth in the fund, so that as units in the fund continue to be sold, it will reach a point when the firm concludes that the premiums being paid and the fund value are no longer enough to pay for the costs of cover, as in Mrs B's case. To maintain the policy with its existing cover, the premiums will need to increase, often substantially, and will continue to increase each year as the consumers get older and the cover costs increase accordingly, unless the sum assured has been substantially reduced.

At this point, there can be several poor outcomes for the consumer. It's possible that the investment fund will be almost completely depleted, leaving little surrender value. Any increase in premiums is likely to be very expensive and potentially unaffordable at a time when the consumer may be retired or close to retirement and have limited means to meet significant increases in costs. Alternatively, if the level of life cover has reduced substantially, the policy may no longer meet the consumer's objectives or ceases to be a cost-effective proposition.

The impact of the sudden and significant changes to the premium or level of cover that occur at the point the policy fails a review, can be mitigated by adjusting the terms of the cover earlier in the life of the policy. If, for instance, a consumer elects to increase premiums some years before the policy is likely to fail a review, this will have a smoothing effect over time, so that the policy is less likely to fail a review and the sudden and dramatic premium increases down the track can be avoided.

This gives the consumer the chance to set premiums at a more affordable and sustainable level for a longer period – even for the rest of their lifetime. The new premiums will be higher than they were at the outset, but not as high as they would otherwise need to become at the point the policy fails its review.

Alternatively, at that earlier point, a consumer who is faced with significant increases in premiums or decreases in the level of cover down the track might decide the policy itself is no longer cost effective, or that it is failing to meet its objectives, and elect to surrender the policy. In other cases, a consumer might decide that it is worth maintaining the policy on its existing terms right up to the point that the policy fails a review.

The opportunity for a consumer to make these decisions is a key event in the life of the policy. Given the impact of increasing cover costs on the investment fund, and in time on the premiums (or sum assured), consumers have important decisions to make about whether to retain the policy, increase the premiums and/or decrease the sum assured during the life of the policy. Those decisions become more difficult the longer the consumer pays into the policy and the options available for mitigating poor outcomes start to diminish. So it is in a consumer's interest to make key decisions at an early stage in the policy's life cycle, and to do so in an informed way, firms need to provide consumers with clear, fair and not misleading information.

Increasing life cover charges and what Aviva should have told Mrs B

Looking at the available evidence, overall, I can see that by April 2009 the total policy mortality costs in this case were at just over £15.50 per month and had therefore begun to overtake Mrs B's £15 monthly premium of £15. So, based on the available evidence, overall, Mrs B's policy has been costing more than the premiums paid since around 2009.

Taking into account the regulatory obligations I have set out above (PRIN) and what I consider to be standards of good industry practice at the time (including the regulator's views as expressed in FG16/8), and in any event what I consider to have been fair and reasonable in the circumstances, I'm satisfied that Aviva should have taken steps to ensure it communicated information to enable Mrs B to evaluate the impact of the increasing costs of cover on her policy and the options available to her in a clear, fair and not misleading way. This needed to include the risks, costs and benefits associated with those options, as well as giving her clear timelines for the making of decisions where applicable.

In my view, this is something that Aviva reasonably needed to do within 12 months of the tipping point being reached – and as I've said, I think it's likely this point occurred in 2009. By giving Mrs B clear information about how much the policy was costing and allowing her to compare those costs with the premiums being paid, Aviva would've been acting consistently with the guidance at FG 16/8 that firms provide "*regular communications*" with customers – and to ensure that, in their communications, that "*firms* [include] *sufficient and clearly explained details regarding the performance of the product, its value and the impact of fees and charges*". Such communications also needed to specifically set out the "*value of any premiums paid in over that period*", and "*charges incurred over the period in monetary figures*", including "*major components and the charge to the customer for benefits such as life cover and guarantees*".

What information did Aviva give Mrs B?

Within a reasonable timescale after the tipping point was reached, Aviva had an opportunity to provide Mrs B with clear information to enable her to consider her options and make a timely decision. Particularly given that, with each year that passed, cover costs would likely continue to increase, making any potential mitigating steps more costly than these otherwise would be over time.

I think Aviva should've provided the information I previously outlined in a clear and accurate format, along with clear information about the options available to Mrs B, together with the costs and benefits as well as time frames for reply. And not in a passive way that required the consumer to draw important inferences for themselves. Even if precise numerical information about the costs of those options could not be given, then at the very least I would expect to see reasonable approximations or illustrative examples so that she could reasonably appreciate the importance of considering her options at that point.

As set out above, the review letters provided some information. For example, that the reviews are to determine if Aviva can carry on providing the same level of cover based on the Mrs B's current plan value and premiums and that it can't continue to provide this. And that the cost of cover is taken from the investment value and will go up each year as it depends on the policyholder's age. And I recognise the cost of cover was included in Mrs B's 2023 annual statement. But Aviva should have also given Mrs B sufficient and clearly explained details to appreciate how much her plan was actually costing. There was no information about the cost of cover in the reviews letters and nothing in any of the correspondence I've seen about how these costs had changed, that the gap between the premium and the charges had closed and how to make the policy sustainable for life, for

example. Nor did these give any projections or comparisons based on assumptions, for Mrs B to know the impact of deductions on the plan and of the requested increase in premium.

In summary, I've not seen any correspondence where Aviva provided enough information about the cost of cover or a clear explanation that these were no longer being met by the premiums. Therefore, I think there was an imbalance of knowledge between Mrs B and Aviva, which meant she couldn't make a fully informed decision about what steps she wanted or needed to take following the tipping point being reached.

What, if anything, would Mrs B have done differently?

Had Mrs B been given clear, fair and not misleading information at the above point, the options open to her would have been to surrender the policy for the cash in value, increase the premiums to maintain the sum assured, reduce the sum assured or take no action.

On balance and for the reasons set out below, having considered all the submissions and information to decide what, if anything, I think Mrs B would likely have done if Aviva had provided her with all the information it should have around the time of the tipping point, I don't think anything would have been done differently in the circumstances, for the reasons set out below.

Mrs L said she took out the policy as she had a mortgage and three small children, and she wanted to ensure they were protected in future if she passed away. And given Mrs B's submissions that she is still concerned about having cover for funeral costs and to leave for her children, I think the need and desire for cover has remained.

In addition, while I recognise Mrs B has suggested she might not keep this policy in future and that she obtained another quote, as far as we were last aware Mrs B has kept the policy in place. And that's despite her being given some information to know that the premium – which has remained the same at £15 per month – might need to rise in future, being made aware at some reviews that the premiums were no longer supporting the sum assured and that this could and would otherwise decrease, in the way it did in 2013 and 2023.

So, while I appreciate Mrs B's position, I don't think her actions support that she would likely have surrendered the policy – or done so any sooner if she has since done so – if Aviva had provided her with all the information it should have in the way I've set out above. Instead, all this suggests to me that there has been a continued desire and need for the policy.

I also note that we asked Mrs B if she would have done anything differently had she been made aware around the time of earlier reviews that her policy could be subject to the scale of changes proposed in the 2023 review. And, in response, Mrs B said that if she'd been in a better financial position she likely would have increased her premiums to maintain the cover but she was unable to do so. And that she had also hoped the reviews may have been more favourable, which didn't turn out to be the case. Mrs B's comments don't suggest to me that she would have surrendered the policy any sooner, or paid any more for this than she has, if Aviva had given her all the information it should have. And, in any event, for the reasons already given above, I'm not persuaded Mrs B would have done that.

In summary, even if Aviva had provided Mrs B with the information it should have in the way I've set out above, I'm not persuaded that she would likely have taken a different course of action. And this means I'm not asking Aviva to do anything.

My final decision

For the reasons I've given, I'm not asking Aviva Life & Pensions UK Limited to do anything.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs B to accept or reject my decision before 29 December 2025.

Holly Jackson
Ombudsman