

The complaint

Mrs M has complained that Aviva Insurance Limited has refused to refund her about three years of premium for a mobile phone insurance policy which she hasn't had or used in those three years.

What happened

Mrs M bought her mobile phone policy with her mobile phone from a high street retailer in July 2019. The policy is underwritten by Aviva. The mobile phone contract was to last for two years. She made a successful claim under her insurance policy in September 2020 and received a replacement handset.

Mrs M's phone contract ended in July 2021, so she took out a new contract with a different provider elsewhere.

In July 2024, Mrs M said she received a letter advising her mobile phone insurance was now expired after its five-year term. Mrs M didn't remember taking out this policy, so she raised her concerns to Aviva, explaining that she had stopped using this phone when her contract ended after two years. Aviva said if she could provide written confirmation from her network provider for this phone of the last time her handset was used or upgraded, they could look at a partial refund of the premium paid. It gave Mrs M details of her phone to include the IMEI to help her network provider locate her mobile phone.

In the meantime, Aviva didn't uphold Mrs M's complaint in August 2024 as it was of the view she did buy the policy, so she was aware she had this policy as it explained in the final response letter. It remained happy to provide a partial refund if Mrs M's network provider provided the confirmation it had requested.

However, Mrs M came back to Aviva explaining that the network provider had no record of the IMEI Aviva provided. And Mrs M remained adamant that she was entitled to a refund of premium after her two-year phone contract had expired. Aviva said that without the network provider providing the information it required it wouldn't provide any refund.

So as Mrs M remained dissatisfied, she brought her complaint to us. Aviva agreed we could also look at the events beyond the date of the final response letter. The investigator thought Mrs M's complaint should be upheld. She felt the crux of the complaint was concerning the fact that Mrs M's network provider couldn't provide the confirmation that she had stopped using this phone in 2021. Given this she didn't think it was fair for Aviva to continue to insist on having this information as it clearly wasn't available. Mrs M had produced her new mobile phone contract from 2021 which the investigator thought was adequate given the network provider couldn't help. So, she thought Aviva should refund the approximate three years of premium to Mrs M with interest.

Aviva disagreed so Mrs M's complaint has been passed to me to decide.

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 upholding this complaint along the same lines as the investigator. I'll now explain why.

I don't think there is any doubt that Mrs M took out this policy for her mobile phone back in 2019 as she made a successful claim under the policy in September 2020. I think it was perfectly reasonable for Aviva to ask Mrs M to get the confirmation evidence of then end usage date of her phone from her network provider. This would ensure any refund of premium for her mobile phone policy was refunded cogently, so as to exclude any notion of fraud etc.

However, since that information isn't available from the network provider, I consider it doesn't remain reasonable or fair that Aviva then refuses to consider any other evidence Mrs M can produce to indicate she no longer used this phone once her two-year phone contract ended.

Mrs M produced her new phone contract from 2021, which shows she is now using another phone with another phone network provider. So, it's unlikely she would still be using this phone when it's now out of contract. Her newer phone even has a different mobile phone number too, I believe. Therefore, unless Aviva was to show any evidence to possibly rebut the fact Mrs M isn't using the old phone, then I don't consider it's reasonable to hold Mrs M responsible for a network provider's inability to find her old phone records. That is just too unfair and indeed overbearing on any consumer in these sorts of circumstances as she would have no influence on network providers to provide this information regardless.

Therefore, I consider the most reasonable way forward, in the very particular circumstances of this complaint, is for Aviva to accept the new phone contract as evidence that Mrs M is no longer using her old phone which was insured under Aviva's policy. So, it should now refund the approximate three years premium Mrs M paid in error given she was no longer using this phone with interest.

My final decision

So, for these reasons, it's my final decision that I uphold this complaint.

I now require Aviva Insurance Limited to do the following:

- Refund Mrs M the premium she paid from the date of her new contract to the expiry date of the policy.
- Add interest of 8% simple, from the date each premium was paid to the date of its refund.
- If income tax is to be deducted from the interest, appropriate documentation should be provided to Mrs M for HMRC purposes.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs M to accept or reject my decision before 5 June 2025.

Rona Doyle
Ombudsman