DRN-5786571

The complaint

Mr T is unhappy with Aviva Protection UK Limited's decision to decline his claim and unwind his policies.

Mr T brings his complaint through a third-party representative, but for simplicity, I'll refer to all submissions as being made by Mr T personally.

What happened

Mr T and his late wife, Mrs T, held two joint life insurance policies with Aviva. The first was taken out June 2018 and the second in April 2019. Sadly, in February 2025, Mrs T passed away after being diagnosed with motor neurone disease a month earlier. Following her terminal diagnosis, Mr T claimed on both policies. Aviva declined both claims and said it was unaware of Mrs T's medical history. It also unwound both policies and said had it known the full extent of her previous medical history, it wouldn't have offered cover.

Mr T said they answered all questions accurately at the point of sale and that Aviva is simply looking to avoid paying his claim. He'd like it to reinstate the policies and pay the benefit he believes is due. Mr T also complained that Aviva caused delays handling his claim.

Aviva said Mr and Mrs T hadn't declared the following previous medical conditions, heart disease, angina and diabetes. It said had it known about these conditions at the time the policies were incepted, it wouldn't have offered cover. It said the misrepresentation was careless and so it unwound both policies and returned the premiums paid to Mr T.

Our investigator didn't uphold this complaint. She said as Aviva had shown a qualifying misrepresentation had taken place, it was entitled to take this action.

Mr T disagreed with her view and asked that an ombudsman consider his case. In summary, he said Aviva hasn't shown the impact of the nondisclosure because it's refused to share its underwriting criteria. Mr T questioned whether instead, the premium should have increased to cover the additional risks presented by Mrs T's previous health conditions. He also questioned whether Aviva's underwriting would have created an opportunity for it to use its commercial discretion in Mr T's particular circumstances. 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. I know this'll come as a disappointment to Mr T and I'd like to extend my sympathies to him for the loss of Mrs T. But I don't think Aviva's made a mistake by taking the action it has in these particular circumstances. I'll explain why.

The relevant law that applies in this case is the Consumer Insurance Disclosure and Regulations Act 2012 (CIDRA). CIDRA says consumers must take reasonable care not to

misrepresent information when asked by an insurer. CIDRA also sets out proportionate remedies available to insurers should a qualifying misrepresentation occur.

In this case, Aviva found that Mrs T hadn't disclosed all of her pre-existing health conditions when completing the health screening questionnaire. It said had it known the full extent of her medical history, it would not have offered these policies because it would have exceeded Aviva's appetite for risk. Aviva said although this was a careless misrepresentation, rather than a deliberate attempt to mislead, it's still a qualifying one because it would have done something differently has it known the facts surrounding Mrs T's health issues.

I'm satisfied Aviva's decision to unwind the policies and return the premiums paid was the right course of action to take as it's in line with CIDRA's remedial action for a qualifying, careless misrepresentation. And so, I don't think it's treated Mr T unfairly here.

Mr T subsequently argued that he's not seen any underwriting evidence to show Aviva wouldn't have offered the policies had it known about Mrs T's heart disease, angina and diabetes. He's also said both policies were incepted in 2018 and 2019 and asked why it won't share this information, given the passage of time that's elapsed. I understand Mr T's argument and the connection he's making here, but our investigator's response to that is correct. Underwriting criteria is higher grade, sensitive data and this cannot be shared with him, or his legal team. Instead, I've considered this information as my role as an impartial ombudsman enables me to do that.

I wanted to reassure Mr T that I've considered the relevant underwriting criteria, and I'm satisfied it persuasively shows had Aviva known about one of these medical conditions that weren't disclosed at inception, the policies would not have been offered. The reason being that these medical conditions exceeded Aviva's risk profile. In other words, the likelihood of a claim was too high, and Aviva didn't want to accept that risk. As an insurer, Aviva's able to decide how much risk it wants to accept from its consumers. It assesses that risk by asking health screening questions at the point of sale and relies on the consumer to take care when answering and to provide accurate information so it can determine whether to offer cover.

I've considered the questions it asked at the time of sale for both policies, and I consider them to be clear and non-misleading. I should note the following question was asked on both occasions.

"Have you ever been diagnosed or treated for any of the following?

** Cancer, leukaemia, lymphoma, Hodgkins disease or any brain or spinal tumour*
** Heart disease including heart attack, angina or cardiomyopathy*
** Heart valve disease or vascular problems*
** Stroke, brain haemorrhage, aneurysm, brain injury, mini stroke or TIA*
** HIV positive or hepatitis B or C"*

A 'no' response was given to this question, which Aviva said was incorrect. Aviva highlighted Mrs T suffered with heart disease and angina and so this should reasonably have been declared. I've considered the available medical evidence, and I'm persuaded by Aviva's argument on this point. Mrs T's GP records show that she was diagnosed with angina in 2010 and that she suffered with chest pain and other related symptoms in April 2014 and had attended A&E as a result.

The records also show Mrs T's GP was concerned about her hypertension as her blood pressure was uncontrolled. The record made in January 2017 shows the GP was concerned about Mrs T's increased stroke risk as a result. I should say this was relatively close to when the first policy was taken in June 2018. I'm aware that Mrs T sadly suffered a stroke in

October 2019, shortly after taking the second policy in April that year.

Having reviewed Mrs T's death certificate, I saw that her stroke was also a contributory factor to her cause of death – which is what prompted Aviva to request Mrs T's medical records so it could better understand her medical history. Upon receipt of this information, Aviva was able to determine her medical history had been misrepresented.

Aviva's evidence persuasively shows it would not have offered either policy had it known this information.

I should also say there were other non-disclosures, including Mrs T's diabetes, which also would have exceeded Aviva's risk profile. Aviva asked the following question on both occasions;

"In the Last 5 years have you had, been diagnosed with, or treated for, diabetes, raised blood pressure, or raised cholesterol?"

A 'no' response was provided to this question, which Aviva said was incorrect. Again, having carefully reviewed Mrs T's medical records, I agree with Aviva. Mrs T was diagnosed with diabetes in 2010 and was in regular contact with her GP about the management of her diabetes. The evidence also suggested she experienced complications trying to stabilise her blood sugars and hypertension prior to taking the policy as well as afterwards. The following entries were taken from Mrs T's GP records which I think persuasively shows some of these complications.

"11/12/2018 - Both eyes diabetic maculopathy and proliferative diabetic retinopathy.
28/06/2019 - Poor Diabetes control HbA1c at the beginning of this month, discussed need for good diabetes control and LA seeing diabetic nurse this week."

Aviva said had it been made aware of Mrs T's diabetes, it would have asked;

"Have you ever had any of the following symptoms or conditions? Please tick All that apply.

1) Angina, a heart attack or heart disease
2) Stroke or mini stroke
3) Kidney disease or reduced kidney function
4) Poor circulation in Legs or feet
5) Protein or blood in your urine
6) Numbness or tingling in the hands or feet
7) Any complications with your eyes as a result of diabetes?
8) None of these"

In addition to what I've explained about Mrs T's angina and heart disease, the evidence shows she also suffered with complications with her eyes as a result of her diabetes and needed laser surgery on both eyes in January 2019. I should say this was also just three months prior to taking the second policy and so I think this should reasonably have been shared with the insurer.

Taking all of this into consideration, I'm persuaded by Aviva's argument that it would have declined to offer the policies had the above questions been answered accurately. And so, it's for these reasons I'm satisfied Aviva has treated Mr T fairly by unwinding both policies and returning the premiums paid as that effectively puts him back into the position he would otherwise be in but for the misrepresentation.

My final decision

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr T to accept or reject my decision before 23 December 2025.

Scott Slade
Ombudsman