

The complaint

Mr W has complained that Aviva Life & Pensions UK Limited has declined his income protection claim.

What happened

Mr W took out a Living Cost Protection policy in April 2024 through an independent financial adviser. He made a claim when he wasn't able to work due to his ill health. Aviva declined the claim – it said that Mr W's occupation had been wrongly disclosed. It said that had the occupation been correctly described it wouldn't have offered a policy. Aviva cancelled the policy and refunded the premiums paid.

Unhappy, Mr W referred his complaint to our service. The investigator didn't recommend that it be upheld. They didn't find that Aviva had treated Mr W unfairly.

Mr W appealed. He didn't think that the outcome was fair and made the point that Aviva didn't have his correct address or email. He didn't think it was right that Aviva was taking his premiums but didn't confirm his details or cover him when he went to make a claim.

As no agreement has been reached the matter has been passed to me to determine.

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.

I'd like to reassure Mr W that whilst I've summarised the background to this complaint, I've carefully considered all the submissions Mr W has made. In this decision though I've focused on what I find are the key issues here. Our rules allow me to take this approach. It simply reflects the informal nature of our service as a free alternative to the courts.

The regulator's rules say that insurers must handle claims promptly and fairly. And that they mustn't turn down claims unreasonably. So I've considered, amongst other things, the available evidence, to decide whether I think Aviva has treated Mr W fairly. Having done so, and although I recognise that he will be disappointed by my decision, I agree with the conclusion reached by the investigator. I'll explain why.

The relevant law in this case is The Consumer Insurance (Disclosure and Representations) Act 2012 (CIDRA). This requires consumers to take reasonable care not to make a misrepresentation when taking out a consumer insurance contract (a policy). The standard of care is that of a reasonable consumer.

And if a consumer fails to do this, the insurer has certain remedies provided the misrepresentation is - what CIDRA describes as - a qualifying misrepresentation. For it to be a qualifying misrepresentation the insurer has to show it would have offered the policy on different terms or not at all if the consumer hadn't made the misrepresentation.

CIDRA sets out a number of considerations for deciding whether the consumer failed to take reasonable care. And the remedy available to the insurer under CIDRA depends on whether the qualifying misrepresentation was deliberate or reckless, or careless.

Aviva thinks Mr W failed to take reasonable care not to make a misrepresentation when answering the question asked about his occupation. This was put down in the application as Administration Manager. When Mr W made his claim, he said that he was employed as a general labourer.

I haven't disregarded Mr W's point that he feels it was for Aviva to verify the information the application form. But I'm satisfied that Aviva was entitled to rely on the answers given. This being so I don't find it was unreasonable for Aviva to conclude that Mr W had failed to take reasonable care when giving the information about his occupation. I recognise that the policy was taken out through a financial adviser, but that adviser was acting for Mr W. For the avoidance of doubt in this decision I'm not looking at the sale of the policy by the financial adviser.

I'm satisfied from the evidence I have seen that Aviva wouldn't have offered Mr W a policy if it had been advised his occupation was labourer – this means that the misrepresentation was a qualifying one under CIDRA.

Aviva has cancelled the policy and refunded the premiums that Mr W paid. This accords with the remedies available to it under CIDRA for careless misrepresentation. I find that was fair.

I'm very sorry that my decision doesn't bring Mr W welcome news but in all the circumstances I don't find that Aviva treated Mr W unfairly, unreasonably or contrary to law.

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 W to accept or reject my decision before 21 October 2025.

Lindsey Woloski
Ombudsman