

## The complaint

Mr V is unhappy that Aviva Life & Pensions UK Limited mis-sold him two income protection policies in the 1990s.

All reference to Aviva includes the company which originally sold the policies to Mr V.

## What happened

Aviva sold Mr V two income protection policies.

The first, policy number ending '38', was sold in 1991. I'll refer to this as 'policy 1'. Aviva says policy 1 was recommended to Mr V.

The second, policy number ending '24', was sold in 1997. I'll refer to this as 'policy 2'. Aviva says policy 2 was sold on a non-advised basis.

In around 2023, Mr V was certified as not being well to work. He subsequently made a successful claim on one of policies.

The complaint about how the claim amount was handled and calculated has already been decided by another ombudsman. Although, the ombudsman did partially uphold the complaint and directed Aviva to pay £200 compensation for distress and inconvenience, the ombudsman also concluded that:

Based on the evidence available to me I'm satisfied that Aviva has settled the claim fairly, and in line with the relevant policy terms. I appreciate that Mr V strongly disagrees with the interpretation of the policy terms. However, I'm persuaded that the calculation Aviva has provided is fair **and reflects what is set out in the policy terms...**

[my emphasis]

The ombudsman also made clear that she wasn't determining any complaint about whether the policies were mis-sold.

Our investigator looked into the mis-sale complaint and didn't uphold it. Mr V disagreed and raised further points in reply. These didn't change our investigator's opinion, so this complaint has been passed to me to consider everything afresh 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.

That includes all the points made by Mr V (along with all other evidence). However, I won't respond to each of these. I hope Mr V understands that no discourtesy is intended by this. Instead, I've focussed on what I think are the key issues here. The rules that govern the Financial Ombudsman Service allow me to do this as we are an informal dispute resolution

service. If there's something I've not mentioned, it isn't because I've overlooked it. I haven't. I'm satisfied I don't need to comment on every point to fulfil my statutory remit.

So that everyone is clear, my decision is focussed on the sales of policy 1 and policy 2 in 1991 and 1997 respectively. Where there's incomplete and contradictory evidence, I've considered what most likely happened on the balance of probabilities.

I know Mr V will be very disappointed as he feels very strongly that the policies were mis-sold. However, for the reasons I've set out below, I don't uphold his complaint.

### **The sale of policy 1**

I'm not persuaded that policy 1 was mis-sold.

I've considered whether Aviva acted fairly and reasonably when advising Mr V to take out this policy and I think that it did.

I've been provided with very little from around the time policy 1 was sold. That's not surprising given how long ago the sale took place. I have, however, been provided with policy terms dated March 1991. Given policy 1's start date, and in the absence of anything to the contrary, I'm persuaded that these are the relevant terms from the time of sale on the balance of probabilities.

Having looked at the policy terms, I'm not persuaded that there's anything that made the policy unsuitable at the time of sale.

The indexation chosen increases the premium and benefit of policy 1 each year in line with Retail Price Index (RPI).

Based on the limited available information, I'm not persuaded on the balance of probabilities that Mr V was advised that indexation would be compounded upon a successful claim being made on the policy.

That isn't set out in the policy terms. The policy terms say:

#### **Indexation of Benefits**

The level of Disability Benefit payable will increase on each Policy Anniversary occurring while a Disability Benefit is payable in line with any increase in the Index Percentage applicable on that Policy Anniversary. If there is no such increase in the Index Percentage then the Disability Benefit payable will remain unchanged.

I've gone on to consider whether Aviva made Mr V aware of the significant policy terms when selling policy 1.

Again, the information from the time of sale is limited but on the balance of probabilities, I'm not persuaded that Aviva didn't tell Mr V about the significant terms of policy 1 – or that he was given incorrect information about the policy benefit and how this would be calculated.

### **The sale of policy 2**

Another ombudsman has already made the following finding:

Aviva hasn't been able to provide an exact copy of the policy terms applicable to [policy 2]. That's not surprising as the policy was taken out in 1997, nearly 30 years

ago. In such circumstances I can consider the evidence that's available. Aviva has explained the nearest available policy information is from June 1997 and that's what it's provided. In the absence of other compelling evidence, I'm satisfied it's fair and reasonable to conclude that this most likely reflects the content of Mr V's policy. In reaching that conclusion I've considered that there is only a few months between the time Mr V took out the policy and the date of the policy information Aviva has provided. I accept it's possible that the terms had changed during that time but, on balance, I think it's unlikely that they had changed significantly. So, I think it's fair and reasonable to rely on that evidence as most likely reflecting the relevant policy terms at around the time Mr V took out the cover.

The ombudsman also explained why she wasn't persuaded that it was fair and reasonable to rely on alternative policy documentation provided by Mr V, as the relevant policy document from around the sale of policy 2.

So, when considering whether policy 2 was mis-sold, I've taken into account the policy information provided by Aviva dated June 1997 (entitled 'key features') as being the information most likely to reflect the content of the terms and conditions relating to policy 2 (which was sold earlier in 1997).

Aviva says policy 2 was sold on an 'execution only' basis, meaning that no advice was given. In the absence of any persuasive evidence to the contrary, I accept that was the case. I've considered whether Aviva made Mr V aware of the significant policy terms when selling policy 2 to him based on the information available to me.

I've seen the insurance schedule for policy 2. It sets out some key information such as the benefit amount, deferred period, maturity date and monthly renewal contributions. So, I think Mr V was aware of those features.

The insurance schedule does say that "total indexation applies to the policy".

The key features document dated June 1997 reflects:

Can I protect my plan against the effects of inflation?

Yes, the benefits under your plan are automatically increased each year unless you specifically ask for them not to be...

And:

Can I increase my income benefit if my earnings increase?

Normally the automatic indexation facility built into your plan will ensure that your benefits increase each year with your earnings. However, if you need to do so, you may further increase your benefits as long as you provide us with evidence of your earnings, current occupation and good health.

I'm not persuaded from anything I've seen that Mr V was told that compound indexation would apply upon a successful claim being made on policy 2 around the time of sale – or that the reference to "total indexation" referred to in the insurance schedule means that this was the case.

Overall, I'm not persuaded that policy 2 was mis-sold.

I know that Aviva has agreed to pay compounded indexation on the claim that was subsequently made on the policy. It's said that it's done this as a gesture of goodwill for this claim only and outside of the policy terms. I'm not persuaded that this is an admission of liability that the policies were mis-sold.

**My final decision**

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr V to accept or reject my decision before 3 February 2026.

David Curtis-Johnson  
**Ombudsman**