

### **The complaint**

The estate of Mr B has complained that Aviva Life & Pensions UK Limited unfairly declined the claim on Mr B's life insurance following his death.

A grant of representation in Mr B's estate was issued to Mrs B. Mrs B is herself represented by her attorney, Mr W.

### **What happened**

Mr B bought a life policy from Aviva in autumn 2021. As part of the application process, he completed a health and lifestyle questionnaire. Based on the information provided, Aviva offered the policy.

Mr B sadly died in summer 2023. So his family submitted a claim on the policy. Aviva gathered information, including Mr B's medical records, to assess the claim. Having reviewed all the evidence, they declined the claim, cancelled the policy and said they would refund the premiums. They said Mr B hadn't answered a question about his blood pressure accurately and – if he had – they wouldn't have offered him cover.

Mr W complained about Aviva's decision. Aviva didn't change it, although they offered £100 for not providing details of their reasons for declining the claim.

Mr W didn't think this resolved the estate's complaint and brought it to the Financial Ombudsman Service. Our investigator reviewed the information provided by both parties and concluded Aviva didn't need to do any more to resolve the complaint. He was satisfied that Aviva's decision was fair and was in line with relevant law.

Mr W didn't agree with our investigator's view. So I've been asked to make 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 that, I'm not upholding this complaint. I'll explain why.

As our investigator explained, when we consider a complaint about misrepresentation, we decide whether an insurer has dealt with the claim fairly and reasonably, and in line with the relevant law.

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.

In this case, Aviva say Mr B didn't take reasonable care when he answered "no" to the question:

*Within the last four years have you had, or have you taken medication for, or been advised to take medication or have treatment for:*

...

*Raised blood pressure or raised cholesterol?*"

Aviva say his medical records show he should have answered "yes".

Insurers ask potential customers about their health to help them assess whether to offer a policy by assessing how big a risk they are taking by providing cover. If they think the risk is too high, they may exclude a particular condition, increase the premium to reflect this, or decline cover altogether.

They need the right information to do this accurately. And they need to get this information by asking clear questions. Mr W's suggested the question isn't clear and that, as he was dyslexic, Mr B needed to use technology to help him understand what was needed.

I've thought about this. But I think the question is clear. Mr B's blood pressure had been recorded as high just two years before the application. So I think it's fair to say he didn't answer the question accurately.

I accept Mr B's dyslexia might have affected how he understood the question. But I've seen no evidence that Aviva was ever made aware of this, to allow them to engage with Mr B to help him understand what he needed to provide. And I note Aviva have said that Mr B did have a financial adviser, who could have assisted him if he'd requested it. So I'm not satisfied I can conclude he took reasonable care to provide the right information in the application.

Mr W's also said that the claim shouldn't be rejected on the strength of a single reading, taken from someone who was averse to visiting his GP.

In respect of this, the question doesn't ask whether there's a pattern of high blood pressure – it asks "*have you had...raised blood pressure*". So even a single instance should have prompted an answer of "yes". This would have opened up further questions to get more information for Aviva to evaluate the risk.

I've considered the record Mr W has referred to. The full entry says:

*"pt mentioned having an "adversity" to coming to the GP. Very rarely comes so BP expected to be high. Pt not willing to change lifestyle and is not interested in having any medical interventions."*

I think that makes it clear that, even if the practitioner was concerned about Mr B's blood pressure, he exercised his right not to have that investigated further. On that basis, I can't be satisfied this was a one-off high reading. And I can't say it was unfair for Aviva to rely on it.

Nor can I say Aviva's literature about blood pressure means the entry should be disregarded. I accept the literature says everyone's blood pressure is different. But, as our

investigator said, Mr B's recorded blood pressure was above what is said on the NHS's website to be high. Had he answered the question "no", this would have given Aviva the opportunity to make further enquiries before deciding whether to offer cover. I'm satisfied that, by not doing that, Mr B made a misrepresentation.

And I'm satisfied that was a qualifying misrepresentation, because Aviva have shown that a blood pressure reading of this level, combined with a lack of treatment to bring the blood pressure under control, meant they would never have offered Mr B the policy.

Finally, I've thought about how the misrepresentation has been categorised. CIDRA provides that, if an insurer decides a misrepresentation is deliberate or reckless, it may cancel the policy and keep the premiums. But, if the misrepresentation is careless, they should put the customer in the position they would have been, had no misrepresentation been made.

In this case, Aviva have cancelled the policy. That's fair, because they've shown that, had Mr B answered the question accurately, they would never have offered cover. And they need to refund the premiums Mr B paid – which they've said they'll do once Mr W provides them with bank account information for them to make payment. I can't reasonably say they should do more.

I note that Aviva have also said that they'll pay £100 compensation to recognise they could have explained their claim decision more clearly. Again, they've asked for bank account details to make that payment. I can't comment on this offer because our service can only investigate complaints brought to us by what our rules call "an eligible complainant". In this case, that's Mr B's estate. But it's not the estate which has been inconvenienced – it's Mr W personally. So, while I hope Aviva will honour the offer they've previously made, I can't direct that compensation be paid.

### **My final decision**

For the reasons I've explained, I'm not upholding the complaint Mr W's made to Aviva Life & Pensions UK Limited on behalf of the late Mr B's estate.

Under the rules of the Financial Ombudsman Service, I'm required to ask the estate of Mr B to accept or reject my decision before 17 December 2025.

Helen Stacey  
**Ombudsman**