DRN-5955644

Financial Ombudsman Service

The complaint

Mrs G complains about a suggested increase in her premiums to sustain her Aviva Life & Pensions UK Limited (Aviva) reviewable whole of life (RWOL) policy.

What happened

Mrs G took out a RWOL policy with Aviva in June 2000, for a monthly premium of £27.12, and a sum assured of £47,655, with critical illness cover. Mrs G added a benefit in March 2001 which increased the monthly premiums to £31.88.

Within the terms and conditions document for the policy, at page 13 it sets out:

> *"6.3 Policy review*
> *We will review your policy on the first policy review date shown I the schedule, and on any further dates we see fit. This review is caried out to make sure that your policy will be able to provide the required level of benefits until the next review date. . . .*
>
> *. . . we may recommend that you increase your premium or do something else. We will also tell you when the next review will be. . . .*
>
> *If we recommend that you increase your premium, you must write to us within one month to let us know if you are going to increase the premium that we recommend until the next review date then we will guarantee to maintain the levels of your policy's benefits until the next review date."*

The schedule set the first review date as July 2005, I understand no review was carried out at this time. A review was carried out in May 2010 and May 2015 both documents set out that the review had passed – that the current monthly payments would sustain the level of cover until the next review.

In December 2021 Aviva wrote to Mrs G as they had missed the review which was due to take place in 2020. This review had failed. Aviva told Mrs G that in order to continue to maintain the level of cover she would need to pay £64.09 per month. If she didn't agree with the increase then they could not guarantee to maintain the level of cover and the policy would likely lapse without having a value in the next five years.

Mrs G didn't agree to increase the premiums and asked Aviva for some policy documents. Once Mrs G had received the policy documents, she said she realised that she could have had the opportunity to surrender the policy and receive some funds back – however, because Aviva had not told her that her investment pot had been reducing, she had missed out on this opportunity. So, she raised a complaint.

Aviva issued their final response in January 2022, in summary they apologised for the late delivery of Mrs G's 2020 review and offered £100 compensation by way of that apology. But they said they had acted within the terms and conditions of the policy when reviewing the plan and so the premium would need to be increased in order for the policy to maintain the level of cover.

The policy was cancelled, and Mrs G let this service know she had organised new cover by March 2022.

An Investigator considered Mrs G's complaint, they didn't uphold it. In summary they found that Aviva had failed to provide Mrs G with clear information about how long her plan would be able to maintain the sum assured at the monthly premiums being paid. However, they didn't think Mrs G would have cashed the policy in even if she had been given clear information.

Mrs G didn't agree with the Investigator's assessment; she said that had she been given clear information she would have cashed in the value of the policy to recoup some of the funds she had been paying over the years. She explained she felt misled by Aviva as they had known they would need to increase the premiums.

As Mrs G didn't agree with the Investigator's assessment the complaint was passed to an Ombudsman for consideration. I issued my provisional decision, Aviva did not respond. Mrs G provided the following additional comments in summary:

- What was the additional cover added in March 2001?
- Mrs G thought the premiums would not change.
- Mrs G was not told that Aviva were using funds for the shortfall in meeting the life cover costs.
- If Mrs G had been told all of the information she would have taken the funds and found alternative cover. She disagrees with the decision made about what she would have done at the time.
- Mrs G disagrees that she has not been financially impacted. She has paid into a policy for 20 years, paying into an account and the money has been taken from her family.
- Compensation should be a refund of the premiums paid due to Aviva's error.

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 appreciate this will come as a disappointment to Mrs G, but having reconsidered the evidence along with her additional comments following my provisional decision, so I'm not upholding her complaint, I will go on to explain why below. Whilst I have considered everything that has been provided to this service, I don't intend on commenting on each item. Instead, I will focus on what I have determined are the key aspects of the complaint.

The below reasoning is largely the same as I explained within my provisional decision, before I go into that level of detail I will comment on some of Mrs G's points following that decision:

- Aviva have told this service that in March 2001 accidental benefit was added to the policy.
- The policy Mrs G had with Aviva was a reviewable whole of life policy. How the reviews would be conducted was set out within the terms and conditions of her policy. This was never a policy which had fixed premiums for the life of the product.
- I agree with Mrs G that she was not told enough information when her premiums stopped covering the life cover costs.
- I appreciate Mrs G doesn't agree with my assessment of what I think she would have most likely done had she been given all of the information I expected Aviva to provide

her with. However, she was benefiting from a guaranteed life assurance level that would unlikely have been possible to replicate for the monthly premiums she was paying at the time. And Mrs G has told this service that she would always have wanted the life cover. So, she would always have paid the monies she has done to either Aviva or another insurance provider.
- The policy is a life assurance policy, funds do not get paid into an account in the way a savings or investment product works. The monies paid have provided the benefit of life cover for the duration the policy was in place.
- For the above, and below reasons it wouldn't be fair or reasonable for me to award a refund of the premiums paid.

When considering what's fair and reasonable in the circumstances, I need to take account of relevant law and regulations, regulator's rules, guidance and standards, codes of practice and, where appropriate, what I consider to have been good industry practice at the relevant time. In reaching my conclusions, I've considered in particular:

- The FCA's Principles for Businesses, in particular Principle 6 and Principle 7;

- The FCA's Conduct of Business Sourcebook (COBS), in particular COBS 2.1.1R(1) and COBS 4.2.1R(1)

- The FCA's Final guidance on the "Fair treatment of long-standing customers in the life insurance sector" (FG16/8).

The key complaint point Mrs G has made about her policy is that she is unhappy she was not advised that her fund was reducing as the cost of life cover has increased.

I think it's helpful to explain firstly how RWOL policies generally work in practice. The premiums paid cover the cost of life cover and any charges. Anything above that is invested to build up a fund. At the start, when the cost of life cover is lower, more of the premiums are invested. Generally, as time goes on the cost of the life cover increases as the policyholder gets older. Which means that it's likely there will come a time when the premiums paid no longer meet the costs of the life cover and charges on their own (the tipping point). The investment fund that has been built up is used to help pay the increasing cost of the life cover. However, there inevitably comes a point where the life cover costs exceed the premium and the investment fund is depleted. Unless the fund's growth outpaces the rise in the costs of the life cover.

Eventually the policy provider will conclude that the premiums being paid, and the fund value, are no longer able to support the level of cover. Therefore, to maintain the policy either the premiums being paid will need to increase, usually significantly, and are likely to continue to increase as the consumer gets older and the life cover cost continues to increase.

The opportunity for consumers to make decisions about key changes to the policy is a key event in the life of the policy. The decision becomes more difficult to make the longer the consumer pays into the policy and the options available to mitigate poor outcomes start to diminish. Information about a RWOL policy should be provided to consumers in a clear, fair and not misleading way. With information about the changes later down the line to the policy the consumer might decide on a number of actions:

- To adjust the terms of the policy earlier in its life. For example, by increasing premiums earlier, so more is paid over a longer time creating a smoothing effect. So,

premiums will be higher than they were at the start of the policy, but not as high as they might otherwise have been at the point of a failed review.
- A consumer may decide that a policy is not worth maintaining at an earlier point and elect to surrender it.
- Or a consumer may decide that its worth maintaining the policy on its existing terms right up until the point the policy fails a review.

In broad terms I consider it was incumbent on Aviva to have provided the following information in a clear fair and not misleading way to enable Mrs G to make an informed decision:

A clear outline of the existing cover – including the sum assured and premiums.

- The current surrender value.

- The life cover costs (including administration charge).

- A clear explanation that the costs were no longer being met by premiums.

- A clear explanation of how long the policy was likely to be sustainable on its existing terms (reasonable approximations would suffice).

- Estimates of what the policy might cost at the point when the policy was likely to cease to be sustainable on its existing terms to give information that would allow Mrs G to fully appreciate the risks and consequences of not taking any action.

- A clear explanation of the poor outcomes a consumer might face at the point the policy became unsustainable on its existing terms. This should include a clear outline of the levels by which premiums would need to increase (or the sum assured would need to decrease) to maintain the policy at that point (reasonable approximations or illustrative examples would suffice).

- A clear explanation of the options available to a consumer that were aimed at mitigating that outcome, together with the costs and benefits of each option (including increases in premium levels, decreases in the sum assured or surrender of the policy).

I've been provided with the annual breakdown of total premiums paid and total cost of the life cover. The policy was self-sufficient (the annual premiums covered the cost of the life cover and charges) until around July 2016 – when the policy reached the 'tipping point'. The point where the premiums needed to be topped up by the fund for the sum assured to be supported. I would expect Aviva to have provided Mrs G with the above information within 12 months of this point, in order for her to make an informed decision about what she wanted to do with the policy.

I've considered the communications Aviva sent to Mrs G at the 2015 review. The 2015 review letter provided Mrs G with the current sum insured but didn't detail the surrender value, life cover costs, explain how long the policy was likely to be sustainable at the current monthly premium, estimate what the policy may cost when it was unable to sustain the sum assured at the current monthly premium or provide what outcomes the policy reaching the tipping point may cause for Mrs G.

There was no communication from the 2015 review until December 2021 when the late 2020 review was provided to Mrs G. And so, I can't agree that Aviva provided Mrs G with clear, fair and not misleading information within 12 months of the tipping point in July 2016.

What would Mrs G have done differently?

I've considered what, if anything, Mrs G would have done differently if she'd been provided with all the information set out above. Had she been given clear information at the tipping point, the options open to her would have been:

- Cash in the policy at the cash in value.
- Increase the premiums to maintain the level of the sum assured.

Mrs G has said that she would have cashed the policy in at the cash in value. She says that's because she would have been able to recoup some of the funds she had been paying to maintain the policy. I've considered everything Mrs G has told this service but, I don't agree.

Mrs G let this service know that she arranged alternative cover when the policy with Aviva had ceased. So, she still wanted the benefit of life cover to continue in 2022. So, if Mrs G had been told that her monthly premiums would not support her level of cover, and they would need to increase at the next renewal, or before, she would likely have done what she did in 2022 – shop around for alternative cover.

Aviva had guaranteed the level of cover until the next review when they wrote to Mrs G in 2015 – so Mrs G had a guaranteed sum assured of £47,655 including critical illness cover between 2015 and 2021 for the same monthly payment. The cost of that sum assured was more than Mrs G was paying in monthly premiums from July 2016.

So, I think it's likely that had Mrs G shopped around at the time, she would not have been able to purchase the same level of cover for the amount she was paying each month. And so, she would most likely have decided to continue with the cover she had with Aviva.

I appreciate Mrs G is adamant that she would have cashed in the policy. As set out I don't think she would have done. But even if Mrs G would have cashed the policy in, I still wouldn't uphold her complaint. I say that because she would most likely have purchased cover with a new provider. Because, that is what she's told this service she would have done in 2015, and did do when her policy with Aviva ceased. And so, she would have paid the funds to a new provider instead of Aviva, in order to maintain cover.

Summary

Aviva didn't provide Mrs G with all the information I would have expected them to. But, had they done so I think Mrs G would have decided to continue to make the payments until the policy ceased. I appreciate Mrs G doesn't agree with that opinion. However, even if I was to agree she would have cashed the policy in, in 2016, it's most likely she would have sought cover from another provider and therefore paid the premiums in any case.

Aviva have paid Mrs G £100 by way of an apology for not issuing her review in 2020. I think this is a fair and reasonable way for them to have resolved this part of her complaint.

I appreciate this will come as a disappointment to Mrs G, but I'm not upholding her complaint about Aviva.

My final decision

I don’t uphold Mrs G’s complaint about Aviva Life & Pensions UK Limited.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mrs G to accept or reject my decision before 15 December 2025.

Cassie Lauder
Ombudsman