

## The complaint

Ms A and Ms A, as Trustees of the A Trust, complain about a reviewable whole of life (RWOL) policy the trust holds with Aviva Life and Pensions Limited. They're unhappy with the level of premium needed to maintain the sum assured following the policy review in 2020. They're also unhappy with the policy's surrender value having paid into it for many years.

## What happened

The policy was taken out in the late 1980s by Ms A and Ms A's parents who were the lives assured. For ease of reading I will mainly refer to Mrs A. The policy initially provided cover of £50,000 for monthly premiums of £14. The policy was reviewed many times over the years and by the time of the 2020 review, Mr A had unfortunately passed away and Mrs A was paying £91.25 for cover of £50,000.

The outcome of the 2020 review was that in order to maintain the sum assured, the premiums needed to increase to £281.05. Alternatively, premiums could remain unchanged, but the sum assured would reduce to £18,821. Mrs A accepted the increase in premiums, but complained to Aviva about the outcome of the review and also that she was mis-sold the policy.

Aviva looked into the concerns she'd raised, but didn't uphold her main complaint points. They explained that they didn't sell Mr and Mrs A the policy, so they couldn't be held accountable for any issues relating to its potential mis-sale. They didn't think they'd acted unfairly when they'd reviewed the policy and proposed the changes that they did. However, they paid £190 in compensation into the policy due to their delay in sending confirmation that they'd received the instruction to increase the premiums.

Mrs A didn't accept their findings and asked for our help with the matter, so the complaint was considered by one of our investigators. They thought that Aviva weren't responsible for any issues relating to the potential mis-sale of the policy and as the firm who sold it was no longer trading, the matter needed to be referred to the Financial Services Compensation Scheme (FSCS).

However, they were of the opinion that Aviva hadn't provided Mrs A with sufficient information about the policy to allow her to make an informed decision. Had they done so, then it was likely that she would have surrendered the policy, so the investigator thought Aviva should pay Mrs A the 2014 surrender value and refund all the premiums paid since that time plus interest.

Aviva didn't accept the investigator's findings. They thought their communications to Mrs A over the years had provided a sufficient level of detail, including projections of how long the policy would last on its existing terms. They also pointed to the fact that Mrs A had kept the policy despite the failed review, as evidence that she still had a need for cover and wouldn't have surrendered the policy. They also thought the redress proposed was unfair as it didn't take account of the cost of the life cover they'd been providing.

As there was no agreement, the complaint was referred for an Ombudsman's decision. However, Aviva subsequently made an offer to settle the complaint. Their offer was similar to the redress the investigator had proposed, but the difference was that they thought only 50% of the premiums should be refunded to account for the cost of providing cover.

Mrs A rejected their offer as she thought all the premiums should be refunded. She also highlighted the outcome of the 2024 review letter she'd received. It had requested a premium increase to £493.21 to maintain £50,000 of cover, or a reduction in sum assured to £38,876 for the existing premiums of £386.83. She said she'd accepted the premium increase, but she was being supported financially by her children as she was only in receipt of pension income.

The complaint was reviewed by one of our senior investigators and they discussed what outcome Mrs A wanted. They asked if she wanted to:

- Keep the policy on its existing terms.
- Accept Aviva's offer.
- Reconstruct the policy on the basis that she would have paid higher premiums earlier in order to make it more sustainable.

Mrs A reiterated that the policy had become something she didn't want. She confirmed that she didn't want to reconstruct the policy and thought that it would be fair to receive a full refund of all the premiums she'd paid since she took it out. She also highlighted that the policy had failed the 2025 review and the premiums had increased to £512.14.

Since there was no agreement, the complaint was passed to me to decide. I recently issued a provisional decision where I said:

*"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 think this complaint should be upheld and I will go on to explain why. But I'd firstly like to address the concerns that have been raised regarding the policy being mis-sold. I fully appreciate Mrs A's concerns relating to the potential mis-sale of the policy. However, it was sold by another firm, so Aviva cannot be held responsible for their actions. However, they are responsible for any issues to do with the ongoing administration of the policy.*

*With this in mind, I've considered if Aviva met their regulatory obligations and I've set out below what I consider to be the relevant standards I've taken into account when making my decision:*

- *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).*

*It may be helpful if I firstly explain how RWOL policies broadly work in practice. The cost of providing cover isn't fixed and instead increases over time as the lives assured get older. At the outset, when charges are relatively low, the difference between the premiums being paid*

*and the charges results in an investment pot being built up.*

*Over time, businesses will undertake reviews to ensure that the policy can continue to provide the chosen level of cover. They will look at a number of different factors such as the size of the investment pot, current mortality rates and investment performance. If they decide the policy isn't sustainable at its current premium, the consumer will usually be offered the option of reducing the sum assured or increasing the premium.*

*This is what led to the changes proposed at the 2020 policy review. Having undertaken the review, Aviva's assumptions were that the policy was unsustainable on its existing terms, and a higher level of premium was needed to maintain the policy's sum assured. The level of change that was required would undoubtedly have come as a surprise to Mrs A as she hadn't needed to make any significant changes to the policy since 2007.*

*But this shouldn't have been the case, taking into account the standards I've quoted above, I think that Aviva ought to have provided Mrs A with clear, fair and not misleading information about the policy. Their communications should have included key details about the policy such as its performance, the value of its underlying fund and any fees and charges that had been applied. They should have provided this information within around 12 months of the point where the costs of policy started to overtake the premiums being paid in 2014, so by the time of the policy's anniversary in September 2015.*

*Having considered the communications sent to Mrs A, I haven't seen that this level of information was provided. The review letters she received in the past only set out whether the policy had passed the review and a projection of how long the policy was expected to last if different rates of growth were achieved, on occasion stating that premiums would sustain the policy for life if the highest rate of growth was achieved.*

*The letters didn't provide any information about the specific costs of the policy and how they were likely to increase in the future or the level of premium that might then be required to maintain the policy's sum assured. Because this level of information wasn't provided, I don't think Mrs A was put in an informed position about the policy or any possible steps she could take to mitigate future risks.*

*I've therefore considered the likely course of action Mrs A would've taken if she'd been put in an informed position in 2015. Aviva should have explained that the costs of the policy were higher than the premiums being paid, the impact of this would be that while the policy wouldn't require any changes at that time, it would likely need changes in the future.*

*This could lead to a few different outcomes for Mrs A:*

- She could surrender the policy and look elsewhere for cover.*
- She could keep the policy until changes were required and then surrender it.*
- She could keep the policy and potentially make changes, such as increasing the premium or reducing the sum assured, in order to mitigate future changes.*
- She could do nothing and accept any future changes.*

*I've considered what Mrs A has said about her circumstances at the time in order to try and determine her likely course of action. She's ruled out the option of making changes to the policy and has explained that she's kept accepting the increases in premium as she feels she will lose all the money she's paid into the policy. She's also explained that if she'd been made aware at the outset that such significant changes would be required to maintain the*

*level of cover, she wouldn't have taken out the policy.*

*It is very difficult to determine exactly what Mrs A would've done if she'd been put in an informed position. It is clear that she views the policy as a type of investment that she's paid into over the years, and she wants to recoup some of her investment but unfortunately this isn't how the policy works.*

*The question I have to ask, is what she would have done in 2015 if she'd been made aware of what the future might hold for the policy. She's already said she wouldn't have made changes to the policy, so that only leaves two options – keep the policy or surrender it. She's explained that the policy is having a significant impact on her financial situation as she's only in receipt of income from the state pension, so she's had to move in with her daughter.*

*I think that if she'd been made aware that the costs of the policy were higher than the premiums she was paying and also how much the policy would cost in the future, then it's more likely than not that she would have surrendered it. It's clear she wanted to keep the policy, but the reality of the situation is that it has become too expensive for her and the premiums will continue to increase over time if she wants to keep the sum assured of £50,000. So, I think Aviva should pay her the 2015 surrender value plus interest.*

*I've then considered if Mrs A is due a refund of the premiums she's paid since 2015. She's previously told us that she would have looked to find a policy elsewhere. But considering that she was over 80 in 2015, a whole of life policy with a fixed sum assured and premiums would have likely been considerably more expensive than her existing policy. So, I doubt she would have found a policy with the same level of cover for a premium she could afford. So, I think that she should also receive a refund of the premiums she's paid since 2015 plus interest.*

*I appreciate Aviva's concerns that they've been on risk during this period and a deduction should be made to reflect the cost of providing cover. However, I don't think this would be fair on Mrs A as she was paying premiums she didn't need to because of a failing on Aviva's part. If sufficient information had been provided, I don't think she would have paid premiums since September 2015, so I think it's fair for her to receive a refund of all the premiums she's paid since that time.*

### **Putting things right**

- *Aviva should pay Mrs A the 13 September 2015 surrender value plus 8% simple interest from that date until the date of settlement.*
- *They should also refund the premiums Mrs A has paid since 13 September 2015 plus 8% simple interest per year from the date each premium was paid to the date of surrender."*

### **Responses to my provisional decision**

Aviva didn't respond to my provisional decision. Ms A and Ms A accepted my findings and didn't provide any further submissions.

### **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.

As there have been no further submissions from either party, I see no reason to depart from

my provisional findings. I remain of the opinion that this complaint should be upheld for the reasons I gave in my provisional decision.

### **Putting things right**

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- They should also refund the premiums Mrs A has paid since 13 September 2015 plus 8% simple interest per year from the date each premium was paid to the date of surrender.

### **My final decision**

For the reasons I've given above, I uphold this complaint. Aviva Life & Pensions UK Limited should put things right as I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms A and Ms A as trustees of the A Trust to accept or reject my decision before 7 January 2026.

Marc Purnell  
**Ombudsman**