

The complaint

The trustees of the P Trust complain about the way Aviva Life & Pensions UK Limited has administered their reviewable whole of life policy.

What happened

In October 1992 Mrs P took out a reviewable whole of life policy, with critical illness cover too. The policy included the option of increasing the premium and sum assured once a year by RPI. The policy was recommended by an IFA, not Aviva, so this decision won't be considering the sale of the policy or whether it was suitable.

The policy was supposed to be regularly reviewed, but due to errors by Aviva, these reviews were not always carried out. Aviva wrote to the trustees and explained this in June 2016. Essentially, whilst the premium was £70.37 in 2016, had the policy been reviewed earlier it would've been lower, at £53.81. So Aviva laid out some options for the trustees. These were to leave the premium and sum assured the same, change the premium to the level it would've been had the reviews been carried out, and Aviva would refund the extra premiums paid with interest (but the fund value would reduce) or change the premium to the level it would now be without any refund of the extra premiums, thereby keeping those invested.

The default option involved changing the premium and a refund. It appears that no response was ever received to this letter, so the default option was followed.

By 2018 the policy was still not reviewed as it should've been and Aviva sent the trustees a letter in April to explain this. It said that it had "taken longer than expected" to complete the 2016 and 2017 reviews.

Aviva explained that the policy would've failed both reviews and therefore changes needed to be made to the policy. The trustees could decide to reduce the sum assured, from £43,299 to £16,727 and keep the premium at £53.81 – or they could increase their premium to £124.51 and keep the sum assured the same. Aviva also confirmed that it would make up any missed premiums and increase the fund value to the level it would have been had the increased premiums been made sooner.

There was some further correspondence between Aviva and the trustees following this letter and some confusion caused by a further letter being sent in September 2018, which was actually the 2018 review. In short, the premium needed to increase again to £142.17 in order for the sum assured to remain the same.

The trustees complained to Aviva about its management of the policy. Aviva looked into their concerns but didn't think it had done anything wrong, so the complaint was referred to this service.

Our investigator looked into their complaint. During his investigation Aviva offered to compensate the trustees, by cancelling the policy and compensating them as if the policy had been surrendered in 2007, refunding half their premiums and paying the fund value, as it was back then, plus interest. The trustees did not accept the offer on the basis that it was not

in their interests to cancel the policy now in view of Mrs P's age.

The investigator concluded his investigation and found that Aviva's communications over the life of the policy had not met the relevant standards. As a result, he thought that if the trustees had been given more information about the policy at key times, they would've made changes to the premium sooner, allowing the policy to be sustained for longer. He recommended Aviva reconstruct the policy on different terms.

Aviva agreed with the recommendation and produced the calculations for the trustees to consider.

I wrote to the trustees to explain how we look at complaints about these types of policies and why Aviva's offer was in line with what the investigator recommended. I also explained that whilst I agreed with the investigator's conclusions around Aviva's communications, I hadn't yet come to a decision about what difference better communications would've made – I explained that I thought it was possible that they wouldn't have made a difference. I therefore gave the trustees an opportunity to accept Aviva's offer or ask me to complete my review.

The trustees did not agree to settle the policy in that way and asked for me to issue a decision. In summary they said:

- They didn't think the investigator's assessment was fair and that it relied "heavily" on Aviva's explanations;
- They didn't think the £200 offered was fair and reasonable.
- There was a claim for hearing loss which had been declined, and this was unfair.
- They raised concerns about "policy cohort and potential comingling" of policies.
- Inconsistencies in Aviva's calculations for how to reconstruct the policy. They disagreed that Aviva ought to be entitled to deduct "hypothetical unpaid premiums" and they disagreed with these being labelled as "unpaid premiums" since they had never been demanded or due.

The trustees therefore asked for an ombudsman to approach the matter "from a consumer protection perspective".

As an agreement couldn't be reached, the case was passed to me to decide.

I issued a provisional decision in February 2026. In it 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 don't agree with the investigator's conclusions – in my view, it's unlikely the trustees would've agreed to increase the premium by so much at a time when it would

not have been required.

It's important that I point out to the trustees that my role is to be impartial and to consider the evidence before me fairly. In reviewing the evidence, I've given weight to contemporaneous letters, notes of phone calls and the trustees actions at key times.

In terms of the investigator's conclusions about the letters which Aviva issued – I don't have much to add. I agree that Aviva's letters were not in line with the standards – the review letters in particular frequently did not set out any of the information needed to understand how the policy was performing, including the life cover charges, how they are were increasing (and why), the total premiums being paid or any clear indication of what might happen in future.

When the life cover charges began to exceed the premium, meaning units in the fund needed to be sold in order to sustain the policy, the trustees were never informed. I think this was especially egregious in this case because of the numerous and repeated errors in reviewing the policy – meaning that it was never clear, in my view, exactly what was happening with the policy and what the impact of each missed review was actually having. Whilst I accept that letters in 2016 and 2018 explained that Aviva would be putting things right, without the monetary figures to see this, I'm not persuaded the trustees would've understood what was happening.

However, this doesn't automatically mean that compensation is payable. My role requires me to consider what I think would most likely have happened, if Aviva had issued more comprehensive communications at the relevant times. In my view, I think it's unlikely that changes to the policy would've been made earlier.

The evidence I've seen shows that in 2007 there was still a need for this policy – and the submissions I've seen from the trustees as part of this complaint show that the policy is still needed. In addition, in 2007 the surrender value would've been a small proportion of the overall value of the policy, so there wouldn't have been a financial incentive to surrender it.

I've then considered whether, in line with what the investigator concluded, more comprehensive communications about the policy would've prompted the trustees to make changes to the policy to make it more sustainable in the long-run. In reaching this finding, I've weighed up the information Aviva did send and the actions taken during the relevant times.

My starting point is that the letters that Aviva was issuing at the time did contain some information which I think ought to have caused the trustees to realise that the policy was not going to be sustainable, on the same terms, for life.

For example, the 2012 review specifically required changes to it, and showed that even by agreeing to make changes to their policy, it would only last another 5 years.

There's no evidence that the trustees took any action as a result of these letters – either by getting in touch with Aviva to find out why the projections showed the policy only lasting another 5 years, or by otherwise asking how they could make the policy last for longer.

In my view this shows that the trustees were happy with the premium they were paying for the cover they were receiving – and weren't looking to amend the policy at that moment in time.

But the key letter, in my view, is Aviva's letter from 2016. Given what was known about the policy (and how long it would be sustainable for), the fact that the trustees opted for a refund

of the additional premiums and a reduction in the monthly premium, demonstrates that they would not have made changes to the policy proactively earlier.

In 2016 Aviva explained that they'd been paying premiums which were higher than they needed to be. This meant that the trustees could either, leave everything as it is, reduce their premium but leave the additional premiums they'd paid over the years in the fund or reduce the premium and receive a refund of the additional money they'd paid.

They opted for the refund and a reduction in the premium being paid.

The reason I think this is significant is because whilst the trustees didn't have all the information they ought to have had, they had enough in my view to know that the policy wasn't going to be sustainable for life at that point.

They knew that leaving the money invested would allow the policy to be more valuable going forward, because the 2016 letter showed them the impact the refund would have on the fund value, reducing it from over £1,000 to just £349.04 – and they'd seen previous projections of how much the policy would be worth, so they knew changes would be likely at future reviews, even if they couldn't know how significant those changes would be given the limited information in the review letters.

If the trustees weren't willing to take any steps in 2016 to make the policy more sustainable, I'm not persuaded I have sufficient evidence to conclude they would've done so in 2007 – bearing in mind that in 2007 Aviva wouldn't have failed the policy or required them to make any changes.

What's important to highlight here is that in deciding whether to increase their premiums voluntarily, the trustees would've needed to weigh up how long the plan was likely to last versus the likelihood of needing to make a claim. That's an assessment that only they could've made. But it's clear to me that any changes they needed to make would've been significant – requiring either a reduction in the sum assured or marked increase in the premium they were paying. I don't have enough evidence to conclude that either of these options would've been pursued.

What all this means is that in my view, they would always have found themselves in the same position they are now in – namely having to increase the premiums in order to maintain the sum assured at the same level.

I understand this provisional decision will come as a disappointment to the trustees, but I've only come to it after a careful consideration of all the evidence.

Aviva accepted my provisional decision, but the trustees did not.

In summary, they said:

- The issue was whether Mrs P would've increased the premiums had she been given more information about the policy by Aviva – and therefore, whether she could've gradually increase her premiums in order to mitigate or avoid the significant increases later on.
- I was not consistent in my provisional decision, because on the one hand I was saying the communications were “materially inadequate”, but on the other I said they had enough information to make “an informed long-term sustainability decision”. They said that if “the information imbalance was significant, it follows that the opportunity to make a properly informed decision in 2007 was lost”.

- The 2016 refund decision shouldn't be used to infer what would've happened in 2007, because that letter wasn't about the sustainability of the policy but about an overcharging issue. This meant that the "decision environment was fundamentally different".
- Since 2018 Mrs P had been paying £158.93, despite raising her complaint – this demonstrated a "sustained willingness to maintain the higher premium in order to preserve the sum assured". This was stronger behaviour and evidence of her priorities.
- There was evidence of policy mismanagement.
- The trustees requested confirmation that the policy "has not been adversely affected by portfolio restructuring, risk reclassification or cohort consolidation following mergers or closed-book management". Further, they sought "confirmation that legacy policies have not been disproportionately impacted by evolving risk assumptions, changes in critical illness experience or internal cross-subsidisation effects that could alter sustainability modelling without transparent disclosure".
- In looking at detriment, I should also consider the issue of the policy becoming non-qualifying.
- I had not commented on the declined hearing loss claim. This was material because the "fact that a claim under the same policy was declined under legacy terms is highly relevant to whether the policyholder received fair value in exchange of the sustained and increased premiums". They asked me to address this in my final 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.

I've considered the trustee's response to my provisional decision, but for the reasons I go on to explain, I'm not persuaded to change my findings. Although I've considered all the comments the trustees have made, I won't be attempting to address each comment individually – the purpose of this final decision is to explain my findings. I should also add that I won't be providing the assurance that the trustees seek about the policy. That isn't my role. If it's something they want to pursue or get answers about, they'll need to reach out to Aviva directly.

In terms of the hearing loss claim, I do note that the investigator explained why it was fair and reasonable for Aviva to have declined the claim – and in response to the investigator, the trustees did not explain why or if they disagreed with that outcome. For that reason, this isn't something I addressed in my provisional decision.

However, I don't have much to add to what the investigator told them about this. It isn't my role to suggest to Aviva when or how it should amend the illnesses its policies cover – and I can't comment on when or why it adds some illnesses and not others.

It may very well be that some of the policies it offers now do provide a payment in the event of total loss of hearing.

The only issue that's relevant here is whether not this policy covers that condition – and it doesn't.

Furthermore, even if it did, the term (3 – Definition of Permanent Total Disablement)

specifies that the condition must arise before the age of 65 – which is not the case here, since the claim was made, from the evidence I've seen, after Mrs P turned 65.

In relation to the trustees comments about whether or not changes to the policy would've been made, I'm not persuaded.

Firstly, there's a difference between concluding that more information should've been provided and then considering what information was in fact provided in order to determine the counterfactual. Concluding, as I've done, that Aviva needed to provide more details about the performance of the policy doesn't negate the fact that it did provide *some* information to Mrs P – and when deciding what Mrs P would've done at relevant times, I do need to take into account the information she was given. There's nothing contradictory in this.

So, for example, even if Aviva ought to have given more detail to the trustees, they can't claim not to have known the policy wouldn't last for life – because the 2012 review specifically told them that and said it would only last another 5 years. There were options in that letter to make changes to the policy, but the trustees didn't make or enquire about making any changes. This is key – because even if Aviva had provided more information to the trustees, it wouldn't have *required* them to take action in the same way a failed review required a change to the premium or sum assured.

In terms of the 2016 letter, here too I'm not persuaded. It's not the context of the letter that's important, but what it meant for the policy. At this point, the trustees were on notice that the policy wasn't sustainable for life. And in my view, they should reasonably have realised that leaving the money in the policy, invested, would likely have the effect of prolonging the policy – whilst withdrawing money from the policy would have the opposite effect. I say this because Aviva laid out these options clearly, with monetary figures. The trustees had already seen projections showing the policy was not going to last for life – they'd already been told, in generic terms, that future increases were possible. They'd already had warnings about this – for example the previous year's review showed them that the policy was likely only going to be sustainable for a few more years.

So it's clear to me that if the trustees were unwilling to leave money in the policy at the time, and opted instead to have a refund (thereby reducing the underlying fund value from £1000 to £349 shows), despite everything they knew about the policy, it follows that, in my view, unless they were required to increase the premium or make other changes to the policy, they weren't likely to pay more for the policy voluntarily. I remain of the view that if the trustees weren't willing to take any steps in 2016 to make the policy more sustainable, I'm not persuaded I have sufficient evidence to conclude they would've done so in 2007 – bearing in mind that in 2007 Aviva wouldn't have failed the policy or required them to make any changes.

The fact that since 2018 Mrs P has been paying a higher amount is not indicative, in my view, of what she might've done in 2007 – especially given that the 2018 review required her to make those changes, whilst better communications in 2007 would not have done so.

Ultimately, I don't dispute that Aviva's failure to provide more information at relevant times meant that opportunities were lost to make fully informed decisions. However, when deciding how to put that right, I need to determine what those decisions would've looked like – in order to establish whether or if any financial detriment has been caused.

In this case, for the reasons I gave in my provisional decision and in this final decision, I'm

not persuaded anything would've been any different. I'm persuaded it's likely that changes to the policy would only have been made when required – and since more comprehensive communications would not have required or forced the trustees to make changes to the policy, I'm not persuaded anything would be different. In my view, they would always have found themselves in the same position they are now in – namely having to increase the premiums in order to maintain the sum assured at the same level.

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 Mrs P, Mr P, Mr P and Mr P as trustees of the P Trust to accept or reject my decision before 11 April 2026.

Alessandro Pulzone
Ombudsman