

The complaint

Mr S is unhappy with Aviva Life & Pensions UK Limited's decision to cancel his policy and return the premiums he'd paid.

What happened

The background to this complaint is set out in my provisional decision. In summary, Mr S had an income protection policy with Aviva which he took out in January 2024. He decided to increase the level of cover in February 2025, as he'd recently been promoted. Mr S answered the insurer's health screening questionnaire and Aviva noticed he'd not previously disclosed an appointment he had with his GP in relation to stress and anxiety.

Aviva decided to cancel Mr S's policy and return the premiums he'd paid.

Mr S brought his complaint to the Financial Ombudsman Service as he wanted the policy reinstated, but he was also unhappy with the breadth of the exclusion Aviva intended to add to his policy.

I considered the complaint and issued my provisional decision, saying Aviva hadn't followed the remedy set out under the Consumer Insurance Disclosure and Representations Act 2012 (CIDRA). I found this was a qualifying careless misrepresentation. Aviva still would have offered the policy, but on different terms. It would have added an exclusion for mental health related claims. I provisionally decided that Aviva should put Mr S back in the position he otherwise would have been in, had the insurer followed the remedy outlined in CIDRA.

This was to reinstate Mr S's policy, in line with CIDRA, apply the exclusion and rework the premium factoring any difference in price. I also recommended Aviva should pay Mr S £450 compensation as it'd left him without cover for a considerable period of time.

Both parties responded to my provisional decision. Mr S said he had no other option but to take a separate policy with a different insurer, to ensure he remained covered throughout that period. He asked that Aviva reimburse those costs. He also said he'd like to know the cost of the reworked policy before he decides whether to go ahead with it.

Aviva reiterated it cannot comply with the remedy under CIDRA because of its systems limitations. It also said it wouldn't want to set a precedent by manually reworking Mr S's policy, taking into consideration the mental health exclusion and its impact on the new premium. The insurer said Mr S is free to discuss setting up a new policy with it instead. Aviva also made a new argument, that it now considers Mr S's non-disclosure to be deliberate, rather than careless. And so, it's now for me to make a 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.

Having done so, I've decided to uphold it and for the same conclusions reached in my

provisional decision. Both party's responses haven't persuaded me to step away from my earlier findings. I'll explain why.

- I remain unpersuaded Mr S's non-disclosure was deliberate or reckless. I explained in my provisional decision Aviva hadn't before now categorised the misrepresentation, but our investigator did and said it was careless. I said I agreed with that. The evidence doesn't persuade me Mr S deliberately withheld this information, rather, he forgot about the visit to his GP when he was originally asked about it in January 2024. He remembered to disclose it in 2025 when he asked to increase the level of cover to include protection for his new salary. Aviva hasn't provided any new evidence to support its new argument and so I remain persuaded this was careless, rather than deliberate. I should also highlight had Aviva felt this was deliberate from the outset, then it wouldn't have returned Mr S's premiums as CIDRA says the insurer would have been entitled to retain them in those circumstances.
- As this was a careless, qualifying misrepresentation Aviva cannot decide to cancel the policy and return the premiums because that's not a remedy within CIDRA. Aviva previously said it did that because its systems limitations mean it can't rework the policy. I didn't think that was reason enough not to comply with the legal framework. Aviva has now conceded this is possible, but it's concerned it could set a precedent and so doesn't want to complete that action. I should say in circumstances such as these, it's expected Aviva carry out the appropriate remedy. The underwriting evidence shows Aviva would have still offered cover to Mr S, but with an exclusion, for claims arising from mental health conditions. Aviva said this would have an impact on the cost of the cover. I've not seen any evidence of that and I've not considered that as part of this complaint. Should there be a difference in cost, then Aviva should discuss that with Mr S outside of this service. Mr S's position has been that he's happy to pay to bring the premiums back up to date.
- Mr S was unhappy with the scope of the mental health exclusion Aviva intended to add to his policy, saying it goes beyond excluding claims arising from stress and anxiety. I understand the argument he's making, and I agree the exclusion extends to other somatic conditions he's never suffered. However, I've reviewed Aviva's underwriting guidelines and I'm satisfied this exclusion, although broad, is relevant. Mr S saw a doctor for symptoms of stress in July 2023, almost six months before the policy was inception. Aviva's underwriters have provided evidence that persuasively shows this exclusion would have been applied to the policy from inception had it known about the appointment back then. And so, I think Aviva's position to add the exclusion to the reinstated policy is fair.
- Mr S provided evidence to show he sourced a replacement policy from another insurer. This is in contrast to what he told the ombudsman service when he first brought his complaint. When describing the financial impact Aviva's actions had on him, he explained he'd been left without insurance during a critical period. However, the new evidence he provided shows he took a new income protection policy in July 2025, shortly after Aviva cancelled this one. Mr S asked that Aviva compensate his additional costs for that policy. I've thought carefully about that and the impact this has on the £450 compensation I recommended in my provisional decision.
- I've decided not to increase the compensation because although I agree this is a consequential loss, this new evidence shows Aviva's actions had less of an impact than I originally considered. Part of my reasoning for the compensation was because I thought Mr S was left without any income protection for a sustained

period, which I'm now aware wasn't the case. But this new information hasn't changed the compensation I'm awarding in this case. I say that because the cost of replacement policy is something I attribute to Aviva's error in cancelling Mr S's policy. Had Aviva complied with the correct remedy under CIDRA, Mr S would not have had to arrange replacement cover. The £450 compensation I've awarded fairly covers the cost of the replacement policy and still provides Mr S with compensation for the distress and inconvenience caused by Aviva's actions.

Putting things right

Mr S said he would like to know the cost of reinstating the policy, particularly the cost of the new premium, taking into consideration the increased level of cover for his salary and the mental health exclusion Aviva will add to the policy. But that's a point for Mr S and Aviva to take further. I've explained this isn't something I can provide, given this complaint is about Aviva incorrectly cancelling his policy. Aviva will need to contact Mr S outside of this service to discuss that. Should Mr S decide he doesn't want to take up Aviva's cover after that discussion, he of course doesn't have to, and Aviva has already returned his premiums so there will be nothing further for it to do. But Aviva knows the actions I expect it to carry out for the reasons I've explained.

My final decision

My final decision is that I uphold this complaint and so Aviva Life & Pensions Limited must now contact Mr S to discuss the reinstatement of his policy that was cancelled in error. Should Mr S decide to take up Aviva's offer, then it should reinstate the policy as this is in line with the remedy for a careless misrepresentation under CIDRA. It should also separately pay Mr S £450 compensation for the overall distress and inconvenience caused by its mistake (regardless of whether he wants the policy reinstated).

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 10 April 2026.

Scott Slade
Ombudsman