

complaint

A complaint has been made on behalf of the late Mrs R that she was mis-sold accidental death and injury policies by Aviva Insurance Limited. It is said that Mrs R would not have been able to understand the policies and would not have taken them out if she had. It has been submitted that Aviva should have checked Mrs R understood the policies when she took them out as well as regularly checked with her they were suitable.

background

Aviva did not uphold the complaint because it said that what the policies covered was explained in the papers Mrs R received. It said it did not give Mrs R advice and was not responsible for checking if they were suitable for Mrs R's circumstances.

The complaint was referred to this service. An adjudicator did not believe the complaint could be upheld. The adjudicator said that the papers Aviva issued reasonably explained the policies and they could not find Aviva had done anything wrong.

The late Mrs R's representative did not accept that finding and so the complaint has even passed to me for review.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

I would like to firstly set out that if Aviva does not give advice personally to a customer it does not in normal circumstances have to assess whether a particular policy is suitable for them or give a recommendation.

For this reason if Aviva simply issues marketing literature (such as that sent to Mrs R) it does not have a responsibility to check if the policy it wants to sell is suitable for her. It is simply offering a policy that a person, such as Mrs R, might be interested in. It is then for the customer to decide if they want that policy or not, or whether they want to get some advice about it. There is no evidence Mrs R sought any advice from Aviva.

Similarly it does not have a requirement to regularly check if the consumer understands the policy or check it remains suitable for them.

I fully appreciate that Mrs R may have had difficulty in understanding these policies but that does not place any further responsibilities on Aviva. Aviva did not know anything about the personal circumstances of Mrs R and was not required to know to offer policies to her by direct marketing. So it would not know Mrs R may have difficulty. Aviva did have a responsibility to make sure that it explained its policy accurately in its marketing literature. But having looked at that literature I believe it did explain how the policies worked and when they would become payable. It is clear they would only pay out on accidental death or injury and not simply on death however or whenever that occurred.

Therefore I do not believe Aviva did anything wrong; it simply offered policies by direct mail which the individual could decide whether to take out or not. I do not believe it had the responsibilities submitted by Mrs R's representative.

my final decision

I am sorry to hear that Mrs R may not have understood the policies; it would be very unfortunate if she paid for policies that she did not want. But I cannot uphold this complaint against Aviva for the reasons I have explained.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs R's representative to accept or reject my decision before 11 April 2016.

David Bird
ombudsman