

complaint

Miss S has Power of Attorney for her mother. She complains that Aviva Life & Pensions UK Limited delayed in providing information about an investment and that this led to her mother unnecessarily having to pay care-home costs.

background

I attach a copy of my provisional decision of 3 September 2018. In that decision I set out the circumstances leading to this complaint, and my provisional conclusions.

In summary I said that there had been shortcomings in Aviva's service. I said I thought it should increase its offer of compensation by £350 to adequately reflect that.

But I didn't think Aviva was responsible for the care-home costs which Mrs S paid while she was waiting for her NHS claim to be assessed. I explained why.

Aviva has said that it accepts my provisional decision.

Miss S says she is extremely disappointed. She says she started the process of getting on-line access to the account well before her mother went into the care home. She says the problem is still not rectified.

Miss S also points out that the initial documents would not have shown the true valuation of the bond. She says her mother had to use her savings to pay for the first seven weeks of her care. Aviva's delay meant her mother's savings were depleted to well below the funding threshold.

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'm really sorry Miss S is disappointed with my decision. I understand what she says and why she feels strongly about this.

As I said in my provisional decision, Aviva took far too long to give Miss S the information she asked for. And it's disappointing if the problems of accessing the account on-line still haven't been resolved. I would expect Aviva to contact Miss S to let her know whether on-line access will be possible and, if not, what the alternatives are.

But, as I said in my provisional decision, the crux of this complaint is whether Aviva's delays mean it should be held responsible for the additional care-home costs.

I appreciate that the original policy information will not have contained the current valuation. But, in the event, it was the type of policy, not its value, which meant it was disregarded for funding purposes.

Information about the type of policy was available to Miss S at the outset and could have been provided to NHS Scotland if it has asked for it. On the evidence I've seen I'm not persuaded it was the information provided by Aviva, rather than the details of the original policy, which caused NHS Scotland to disregard the policy. So I don't think it would be fair to

hold Aviva responsible for the fact that Miss S's mother incurred fees she might otherwise have avoided.

Miss S has told us the financial assessment can't be backdated. I don't know if there is any appeal against that decision. Miss S might want to take advice on that if she hasn't already done so.

I'm sorry this won't be the answer Miss S wanted, but I confirm my provisional decision.

my final decision

I uphold this complaint in part. I direct that Aviva Life & Pensions UK Limited must pay Miss S £350 compensation in addition to the £150 I understand it has already paid.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss S to accept or reject my decision before 12 November 2018.

Sue Wrigley
ombudsman

provisional decision

complaint

Miss S has Power of Attorney for her mother. She complains that Aviva Life & Pensions UK Limited delayed in providing information about an investment and that this led to her mother unnecessarily having to pay care-home costs.

background

In June 2017 Miss S started the process of dealing with her mother's affairs. She sent Aviva the Power of Attorney so that she could gain access to the Portfolio Bond her mother held with it.

Between August and November 2017 Miss S encountered various problems. She wanted to access the account on-line. For technical reasons that wasn't possible. And she wanted an up-to-date valuation. She says that wasn't provided.

There were also issues of poor communication and customer service for which Aviva paid £150 compensation.

In December 2017 Miss S brought her complaint to us. She explained that her mother had been moved into a care-home at the beginning of November. She said she needed a full valuation of the policy for NHS funding purposes. She said she also needed access to the policy on-line so that she could take out cash to pay the care-home costs.

On 7 January Miss S gave us some more information. She told us that on 4 January NHS Scotland had asked for some further details about the policy. Miss S's husband phoned Aviva and obtained a written valuation by email. Miss S sent that to NHS Scotland along with copies of the original policy documents.

On 5 January NHS Scotland confirmed that because the policy included life insurance it could be disregarded for funding purposes.

Miss S says that by this stage her mother's other savings (which she'd been using to pay the care-home fees) had been depleted to well below the funding threshold. She blames Aviva for this. She says its delays caused her mother to lose around £10,000 in care-home fees that would otherwise have been paid by the NHS Scotland. She's been told that the financial assessment can't be backdated.

Our investigator looked into this complaint. She could see that Miss S had experienced difficulties trying to access the account on-line and that there had been shortcomings in Aviva's customer service. She thought Aviva had dealt with those problems fairly by paying compensation.

The investigator said that Aviva had provided a copy of a valuation letter it said it had sent on 23 November 2017. She thought Aviva could have provided that information earlier and that if it had NHS Scotland would have assessed the claim sooner. So she thought Aviva should reimburse Miss S's mother for the care-home costs she incurred from 8 November, when she moved into the home, to the date the letter was sent.

Neither Miss S nor Aviva agreed.

Miss S said she hadn't received the letter. She thought Aviva should pay the costs from 8 November to 4 January when she received the written valuation by email.

Aviva didn't think it was responsible for *any* of the costs. It said the claim could have been made without physical evidence of the value of the policy. It pointed out that NHS Scotland had taken six

weeks to assess the claim and so confirmation of the value of the policy could have been sent later. It doubted that the assessment couldn't be backdated.

As agreement couldn't be reached the matter has been passed to me for a decision.

my provisional findings

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

This was clearly a very stressful time for Miss S. That wasn't helped by the undoubted shortcomings in the service she received from Aviva. I don't think it's necessary to set out everything that went wrong. I've read all the correspondence and I can see that Miss S faced a number of difficulties. Aviva recognised that and paid compensation.

The crux of Miss S's complaint now is whether Aviva should be held responsible for the care-home costs her mother paid while she was waiting for her claim to be assessed.

I don't think it should. I'll explain why.

At the beginning of November 2017 it was decided that Miss S's mother would need full-time care. On 7 November NHS Scotland sent funding assessment forms to Miss S for completion. Her mother was admitted to the care-home on 8 November.

Miss S completed and returned the forms. They're dated 15 November but Miss S says she sent them on 25 November. It's clear from comments Miss S put on the form that she was still waiting for a written valuation from Aviva. She gave an estimate of the value and said she'd provide the "promised valuation" as soon as she received it.

I've seen a copy of the letter Aviva says it sent on 23 November. Miss S says she didn't receive that letter but that she did get a valuation over the phone on 27 November 2017.

I think it's clear that there was a delay in obtaining the written valuation Miss S had asked for. Although her earlier enquiries were mostly to do with obtaining on-line access to the account I've seen emails that show Miss S asked for a written statement as early as the 8 August 2017.

In the event, though, whilst this was clearly unsatisfactory, I don't think it means Aviva is responsible for the care home costs.

Firstly it has to be remembered that Miss S's mother's other savings were, at the outset, over the funding threshold. So it's likely she would always have had to cover some of the fees herself.

But, more importantly, looking at the correspondence between Miss S and NHS Scotland I can see that on 4 January NHS Scotland telephoned Miss S and asked for some further information about the policy. Miss S sent the policy documents together with a written valuation obtained that day from Aviva by email.

On 5 January NHS Scotland confirmed that the policy could be disregarded for funding purposes. But that was because of the *type* of policy, not its valuation.

Information about the type of policy was available to Miss S at the outset. She had the original papers and could have provided these earlier if NHS Scotland has asked her to. I don't see that Aviva can fairly be held responsible for the fact that didn't happen.

Of course it isn't possible to be sure what would have happened if Aviva had provided a written valuation earlier. But it isn't obvious to me any delays on its part led to Miss S's mother incurring costs she would otherwise have avoided.

So I'm not currently minded to require Aviva to reimburse any of those costs.

Having said that I do have concerns about the length of time it took Aviva to provide the written valuation. That was clearly unsatisfactory and undoubtedly added to the anxiety and stress Miss S was suffering at a very difficult time.

I don't think the compensation Aviva paid adequately reflects that and I'm minded to require it to pay an additional £350 (making the total compensation £500).

I know Miss S might not think this goes far enough. It won't be the answer she was hoping for. And I'm really sorry to hear about her mother's illness. I know this will be a very difficult time.

But, for the reasons I've explained, I don't think it would be fair to ask Aviva to pay the care-home fees she has asked for.

my provisional decision

My provisional decision is that I'm minded to require Aviva to pay Miss S £350 compensation in addition to the £150 I understand it has already paid.

Sue Wrigley
ombudsman