

The complaint

The estate of Mr G brought a complaint against Aviva Life & Pensions UK Limited regarding a pension policy that it believed Mr G would still have held with it.

What happened

- Mr G had a pension policy that started in 1971 with a retirement date in 2000.
- Mr G passed away in 2022
- Mr G's wife, as representative of his estate, contacted Aviva to trace this pension.
- Aviva explained that it held limited information about the pension as it had been settled in 2002 by way of a lump sum payment.
- The estate of Mr G didn't accept Aviva's explanation and complained to Aviva. It didn't believe that Aviva would have had an up to date address for Mr G in order to have settled the pension in the way it claimed. And suspected that the pension fund would be in a suspense account.
- Aviva responded to reiterate its explanation that it appeared that a lump sum payment was made in April 2002. And explained that the terms of the General Data Protection Regulation (GDPR) meant that it wasn't able to retain detailed records for over twenty years. So had no further information about that policy to provide to the estate.
- The estate of Mr G didn't agree and brought its complaint to us.
- After investigating, our investigator concluded the complaint should not be upheld because there was no evidence from either the estate or Aviva that the policy in question was still in place. In fact, the limited evidence available indicated that it had been paid up in 2002.
- The estate of Mr G disagreed. It said that Aviva couldn't provide evidence of the method of payment in 2002, and that it didn't believe that Mr G made a claim on this policy.

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 will start by offering my condolences for Mrs G's loss. I understand that this will have been a very distressing time and it can be very difficult sorting out financial affairs with incomplete information. But, as our investigator explained, our service needs to base its findings on the evidence that is available. Having considered that available evidence, I've decided not to uphold this complaint for the following reasons:

- To be able to uphold the estate of Mr G's complaint, I would need to decide that the pension had not been settled and was still in place.
- The original 'certificate of assurance of equivalent pension benefits' that the estate of Mr G has provided is evidence that, in 1971, Mr G had accumulated benefits worth £28.92 a year. This policy would, most likely, have related to benefits that had been accrued by contracting out of, what was then, the State Graduated Pension Scheme. But it is not evidence of when benefits in that policy would have been taken.
- Aviva hold limited information about its policy. But it provides a normal retirement date that matches the 2000 date on the above certificate. And the benefit value (lump sum of £290 or annual income of £29 a year) appear to match. So I think that the policy that Aviva identified is, more likely than not, the one that the estate of Mr G was querying.
- Aviva's only record shows the policy having been settled in 2002. In the absence of evidence to the contrary, it's more likely than not that the policy was paid when Aviva have said.
- GDPR places an obligation not to hold personal data for consumers for longer than it's actually needed. So I don't think Aviva have acted unfairly in not retaining information about means of payment or correspondence for a policy that closed twenty years ago.

My final decision

My final decision is that I do not uphold this complaint about Aviva Life & Pensions UK Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask the estate of Mr G to accept or reject my decision before 22 February 2024.

Gary Lane
Ombudsman