

The complaint

Mr L has complained that Aviva Life & Pensions UK Limited didn't provide him with enough information about his pension policies which meant that he wasn't in a sufficiently informed position to make the best decision as to when he should begin accessing his pension benefits.

What happened

The investigator who considered this matter set out the background to the complaint in his assessment of the case. I'm broadly setting out the same background below, with some amendments for the purposes of this decision.

Mr L took out three policies in the 1980s, each of which had the benefit of a Guaranteed Annuity Rate (GAR) attached to them. The policies had an initial nominated retirement date of 60 at which point the GAR would become applicable.

On reaching the age of 60, Mr L chose to defer the taking of the benefits on his pension policies.

But having reviewed the terms of the policies, Mr L concluded that, had he been given sufficient information and advice relating to the benefits on the policy at age 60, he would have taken the annuity on the policy then.

Over the years this would have led to payments in excess of £150,000.

Mr L raised concerns with Aviva over the amount and quality of information it had sent to him, and whether this information was clear. Mr L further queried as to whether critical information was properly presented to him so that he could make the best decision with regard to when to take his pension benefits.

Mr L also said that he had understood that the value deferred each year would be added on to the value of the pension, but that he had since found out that this wasn't the case.

Aviva declined to uphold Mr L's complaint, saying that the available evidence didn't support the position that it had misled Mr L as to how the policy worked. With regard to the amount of information it had sent Mr L, it said that it was required to send specific information as part of its quotes for accessing benefits and in annual statements.

Dissatisfied with the response, Mr L referred the matter to this service.

Having considered the complaint, our investigator didn't think that it should be upheld. He said the following in summary:

- The GAR which Mr L had on his policies would continue to be recalculated after age 60 in line with the terms of the contract, ultimately being capped at age 75.

- A letter from Aviva dated 14 October 2022 showed the steady increase in the annuity which could be bought between age 60 and 75. This effectively increased from a GAR of 10.6% to 18.24%.
- This meant that Mr L hadn't lost the value of his GAR over the years since age 60. And although he hadn't been receiving annuity payments whilst the GARs were deferred, by accessing his benefits later he would be receiving higher income for the rest of his life.
- Whilst it was likely that it would have contacted Mr L in advance of his 60th birthday to let him know his options, Aviva wasn't able to provide financial advice on those options. The investigator's understanding was that Mr L had opted to defer taking his annuities, allowing the policies to increase in value.
- With regard to the documentation that Aviva had sent to Mr L, the investigator said that it had legal, regulatory and contractual obligations to which it needed to adhere. This was so that Mr L could make the best decisions for his future.
- The information within the documentation had been presented in a manner which was clear, fair and not misleading.
- Although Mr L had referred to information he was told when he first took out his policies, the investigator couldn't see that details of specific conversations from that time had been made available.
- It was likely that the increase in the GAR over the years since Mr L's 60th birthday would mean that he hadn't been financially disadvantaged by the decision to defer.
- The investigator noted that Aviva had offered a settlement of £250 in respect of customer service failings, and having considered our guidelines, the investigator was satisfied that this was appropriate in the circumstances.

Mr L disagreed, however, saying the following in summary:

- He had a full understanding of the GARs to which he was entitled from age 60 onwards and that these would increase with age – although life expectancy would also decrease as he became older.
- He was also aware that Aviva couldn't provide financial advice, but in line with its duty to treat customers fairly, it needed to provide him with all information in a timely manner so that he could discuss matters with his financial adviser and make the best decision.
- Although the investigator considered that Aviva had provided information in a clear, fair and not misleading manner, this must be different from the information which had been provided to him, which was of poor photocopy quality and often unreadable, and in no discernible order. The essential information which he'd requested from Aviva hadn't been provided.
- He'd requested confirmation of the three fund values at age 60 and each annual anniversary thereafter (which should be in the form of annual statements). As the telephone records confirmed, he hadn't received these.

- As his pension was invested in the With Profits fund, the value should have been increasing over the years with the addition of bonuses. But if the increase wasn't significant, as appeared to have been the case here in the early years, then he would have been persuaded to take benefits earlier.
- There had been a complete failure by Aviva to provide information in a timely manner which it was obliged to do under the relevant regulations.
- He requested the annual statements if the investigator had been provided with them.

The investigator referred Mr L's points to Aviva, but the latter disagreed that Mr L hadn't been aware of the values of his policies, particularly in the early years (age 60 to 65). In support of this position, it said the following in summary:

- A letter was issued to Mr L in 2007 which covered all of his policies, confirming a change of retirement date to age 75. It also issued a "wake up" pack in 2007 informing Mr L that his retirement date of 60 was approaching.
- Bonus notifications and valuation letters were issued for all policies in 2009, which also showed the retirement date for each policy.
- Mr L requested a transfer value in 2010, which Aviva provided to him. No further action was then taken by Mr L.
- In 2015, when Mr L was 68, he appointed an Independent Financial Adviser (IFA) who requested information which Aviva duly provided. However, no further action was taken.

Aviva said that it considered it had made Mr L aware of the position on his policies during the early years of his potential retirement, but Mr L took no further action with regard to taking his pension benefits. It attached the documents referred to above.

The investigator conveyed this information to Mr L, who responded as follows:

- His IFA had conducted a one off review of his financial position in generally in 2015. Aviva didn't respond fully to the requests it made, but the IFA was able to advise him that, as he held GARs on his policies, he shouldn't transfer them.
- He believed he was entitled to receive bonus notifications and valuations each year, together with the value of the GAR so that he could immediately determine that taking the GAR was more beneficial than leaving it in the fund. He didn't receive these valuations and they hadn't been produced.
- Had he been able to see the disconnect between the increase in the pension fund and the pension postponed, then it would have been clear to him that he should vest his benefits rather than defer them.

Having considered the further points made by both parties, the investigator said that he wasn't persuaded to change his view on the matter. He said the following in summary:

- Although Aviva hadn't as yet been able to demonstrate that annual statements had been sent to Mr L, this wasn't always required. In Mr L's case, as no further contributions were being made, any growth would derive from annual bonuses

applied to the policies. These were detailed several times in the documents which he'd had seen, the investigator added.

- But even if annual valuations were required, this wouldn't necessarily mean that the complaint should be upheld. In order to do so, it would need to be demonstrated that, based upon Mr L's situation at the time and the available information, Mr L would have begun to take his pensions benefits at an earlier point. But the investigator wasn't persuaded that this would have happened.
- The "wake up" pack and bonus notifications, along with valuation letters, were sent to Mr L in 2009. Mr L then also contacted Aviva for a transfer value in 2010. Mr L was therefore aware of the policies at that time and was considering his options as to whether he should take them or defer them.
- Then, in 2015, Mr L appointed an IFA who requested policy information, and on the basis of discussions held, Mr L made the choice to remain invested in the pensions. Although Mr L may not have found the information to have given him a "straight answer", if an IFA was involved, they would have understood the information provided and been able to help Mr L to make a reasonable decision.
- The bonus declarations in 2009 and 2014 would have demonstrated to Mr L that there were no bonuses for those years – thereby indicating poor growth on his pension funds. The investigator presumed that these notifications would have factored into discussions with the IFA when making decisions about the pension policies.
- The investigator appreciated that Mr L may now feel that he would have been better off taking the pension benefits earlier, but it wasn't unusual for people to wait until they were ready to take their pension benefits, particularly when an increasing GAR was involved.

Mr L maintained his disagreement, however, saying the following:

- He reiterated that in 2015, when his IFA requested information, Aviva didn't provide a full response and so he wasn't in a fully informed position to be able to make a decision at that time.
- The investigator was being persuaded by Aviva that it made every attempt to communicate matters to him when in fact his records – and those provided by the investigator - clearly demonstrated a failure to do so. He was entitled to at least an annual statement.
- If he'd been made aware that the value of his pensions wasn't keeping pace with the value of the pension benefits he could have been receiving, he may well have been persuaded to take his pension benefits from age 60 or shortly thereafter.

As agreement hadn't been reached on the outcome, and at Mr L's request, the matter was referred to me for review.

At my request, the investigator asked Aviva to provide evidence of the annual statements which had been sent to Mr L.

Aviva provided some of these, along with other information it considered relevant to its view of Mr L's awareness of the position with regard to his pension policies.

These were forwarded to Mr L for his further comment, and he responded as follows:

- It seemed that the provided information was inconsistent both in format and content, and as demonstrated from phone calls, there were a number of times when the information wasn't in fact provided on the dates stated on the letters, if indeed at all.
- In any event, the documentation did suggest that it had been produced consistently for the three policies.
- The transfer value of one of the policies (ending 01D) in 2009 was £87,009, but Mr L couldn't see anything in the information which alerted him to the fact that the transfer value had fallen. This should, at the very least, have been highlighted.
- The basis of his complaint was the lack of cogent information with which he was provided for each policy. If it had been provided on an annual basis, then he would clearly have seen that there was little point in remaining invested due to the lack of growth. He would almost certainly have taken benefits earlier and benefited from the guaranteed income.

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.

And having done so, I've reached broadly the same conclusions as the investigator and for similar reasons.

In terms of Mr L's initial decision to change his retirement date to age 75, it seems unlikely to me that he would have done so without first thinking about the value of his policies, the likely increase in the GAR over the next 15 years, and whether he needed or wanted to begin taking the pension benefits.

And in doing so, Mr L must have satisfied himself that he had sufficient information to be able to make that decision, including the information which was contained in the "wake up" pack. This was after all a proactive decision, rather than one made passively. Otherwise, it might reasonably be expected that he would have requested additional information before deciding to defer his retirement date.

Mr L has also said that, had he been aware that there was disconnect between the increase in the value of his pensions and the benefit of deferring, he would have vested the benefits earlier. But notwithstanding my comments above about the information which was sent to Mr L in the run up to his 60th birthday, following this in terms of bonus notifications and then the annual statements which were sent to him, I don't think that the available evidence supports this position. For example, in 2009 and 2014, when Mr L was informed that there was no bonus to declare in those years, and so no growth, Mr L took no action towards vesting his policies.

And when his IFA reviewed his general financial position, it seems more likely than not, if the pension policies and the possibility of transferring them was considered, that the relative benefit of leaving them deferred or taking them sooner rather than later, was considered. And if it wasn't, then this is something that Mr L may wish to raise with that IFA separately. I note that Mr L has said that Aviva didn't respond fully to the information request made by his IFA, but if this was the case, then it might reasonably be expected that this would be followed up, or a complaint made at the time in respect of the missing information.

Looking specifically at the annual statements which Aviva has provided, I can see that up to 2016, Aviva set out whether it had been able to apply a regular bonus for the year, and provided an example of the amount Mr L might be able to expect as an annuity – but it did explain that this was based upon “government rules” rather than applying its own annuity rates or any guarantees Mr L may have had. But as Mr L was aware of his GARs, it seems likely that he would have been able to apply them to the stated fund values to arrive at his own personalised projection – or ask Aviva to do so.

From 2017 onwards, Aviva not only provided the transfer value and the projected annuity based upon standardised assumptions, but also set out the projection using Mr L’s GAR. Although Mr L has said that, had he been aware of the poor performance of his policies, especially in the early years, he may have taken the benefits earlier, for several successive years in the statements made available from 2009, Aviva said that it hadn’t been able to declare an annual bonus. And I think if any of this information was unclear, or Mr L wished to obtain greater clarity on the position of his pension funds, then it was open to Mr L to contact Aviva to discuss it further – as Mr L was invited to in the annual statements.

I think it’s not a stretch to say that, in the years since his 60th birthday, Mr L seems to have taken interest in the value of – and benefit attached to - his policies, requesting as seems to be the case the transfer value in 2010, and then, via his appointed IFA, requesting further information in 2015. Aviva also responded to a further information request from Mr L about his policies in March 2016.

It’s fair to say that the information provided by Aviva isn’t comprehensive. But I don’t think it needs to be for me to be able to be broadly satisfied that, notwithstanding the enquiries made by Mr L himself and his IFA, Aviva has provided sufficient information to place Mr L in an informed position as to how his policies were performing.

But even if a different interpretation of this was possible, Mr L was certainly aware of particular features of his policies – for example that he’d proactively deferred taking benefits beyond 60, that any growth on the policies would derive from annual (or terminal) bonuses, and that the GARs would be increasing each year. If Mr L wished to determine whether it would be prudent to take them at an earlier point and required more information than was contained in the documents sent to him by Aviva, then he could at any time have enquired as to the status of his policies and his options, which was something he did on several occasions.

Further, the fact that explicit “no bonus” notifications were sent on at least two occasions in 2009 and 2014, in addition to Mr L himself enquiring as to the transfer value in 2010 (and other details in 2016), and then Mr L’s IFA enquiring about the policy details in 2015, but the lack of action by Mr L on any of these occasions, indicates to me both that Mr L was aware, or ought reasonably to have been aware, of any possible “disconnect” between the growth of his policies and the benefits of deferring them.

Mr L (and perhaps his IFA) may have decided that it was nevertheless worthwhile deferring the policies, and this may not have turned out to have been the most financially beneficial decision (although I do think it’s worth bearing in mind the investigator’s comments about the higher income payments by way of the escalating GAR) but this isn’t something for which I can fairly or reasonably hold Aviva accountable.

In closing, I’ve noted what has been said about the customer service provided to Mr L – but in thinking about the types of award which this service might typically make in respect of this and the degree of trouble and upset caused to Mr L, I think the amount of £250 offered by Aviva is appropriate.

My final decision

My final decision is that I don't uphold the complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 28 November 2024.

Philip Miller
Ombudsman