

## **The complaint**

Mr R complains that Aviva Life & Pensions UK Limited (Aviva) provided him with incorrect annuity rates. He therefore feels that he's been disadvantaged and that he's receiving a lower annuity amount than he should be.

To put things right, Mr R would like Aviva to put him back into the position he would've been in but for its errors.

## **What happened**

Mr R had a Section 226 policy with Aviva which included a Guaranteed Annuity Rate (GAR). His policy was invested in the Pension Assured Fund, which increased as monthly dividends were added. The value of the dividend was linked to the performance of the fund.

On 14 April 2021, Aviva sent Mr R's representative his retirement options. Its letter showed four options. The illustration for option 4 was for a full fund annuity with a 100% spouse's pension, payable monthly in advance, with RPI escalation and no guarantee period.

The quote for option 4 stated that Mr R was entitled to a GAR from age 74. And that a fund value of £113,920.78 would provide an annual income of £8,592.35. Aviva said these figures used annuity rates as at 1 April 2021.

On 21 June 2021, Aviva wrote to Mr R as his retirement date was approaching. The letter explained the potential importance of the GAR. It noted that Mr R would need to take action before his 75th birthday if he didn't want to lose the GAR.

On 9 September 2021, Mr R's representative requested a further annuity quote from Aviva. It had to chase Aviva for this. In the meantime, it changed the basis for the annuity request slightly. The changes were from an annuity with no guarantee period paid monthly in advance, to one with a 10-year guarantee period paid quarterly in arrears.

Mr R raised a complaint with Aviva on 4 October 2021 about the delayed provision of the requested quotes.

Mr R said he received a letter from Aviva, dated 18 October 2021, highlighting the tax consequences of not accepting any of the quotes before his 75th birthday. He said this letter had actually stated that he was entitled to a GAR for age 65, despite having requested one for age 75.

Aviva issued its final response to Mr R's complaint on 22 October 2021. It offered him £150 compensation by way of apology. I understand that Aviva also provided the requested quotes at this point. But that they weren't accurate as they stated that the GAR was applied with the assumption the annuity would be taken at age 65, whereas Mr R was 74 at the time.

On 10 November 2021, Aviva issued a further illustration for a full fund annuity with a 100% spouse's pension, payable quarterly in arrears, with RPI escalation and a 10-year guarantee period. This quote also incorrectly stated that Mr R was entitled to a GAR from age 65.

The quote dated 10 November 2021 showed a fund value of £136,231.75 and an annual income of £8,035.82. Mr R couldn't understand why there was such a large difference between the annual income figures.

Mr R believed that the annuity rate wasn't correct compared with the April 2021 quote. So he referred his complaint to this service.

Aviva wrote to Mr R's representative on 6 December 2021 to tell it that the 14 April 2021 quote contained a misprint. It said that the correct fund value in that quote was £131,097.52. It also provided updated annual income quotes. It said that a full fund annuity with a 100% spouse's pension, payable monthly in advance, with RPI escalation and no guarantee period would pay £9,385.22 each year. And that if that basis changed to quarterly in arrears with a 10-year guarantee period, the annuity would pay £8,023.19 each year. The letter also stated that Aviva had extended the expiry date of the quote to 20 February 2022.

Mr R submitted his annuity application on 15 February 2022 for the annual annuity for £8,035.82 as he was concerned about the extension placed on his policy expiring. Although Aviva had extended the expiry date again before this, Mr R didn't find out about that until after he'd completed his application.

Aviva wrote to Mr R's representative on 14 March 2022 to tell it that an annuity for an annual income of £8,067.10, with 100% spouse's pension, a 10-year guarantee period, RPI escalation and payment quarterly in arrears had been set up for Mr R. It provided cancellation rights. And noted that the actual fund value used to purchase the annuity had been £136,650.70.

Aviva issued a further complaint response on 14 March 2022 to address the concerns Mr R had raised since its first investigation. It offered him a further £350 in recognition of the distress and inconvenience it'd caused him.

One of our investigators issued her view on this complaint on 23 February 2023. She acknowledged the delayed quotes and that the mistakes Aviva had made had led to Mr R losing confidence in it. But felt there was no evidence that the annuity he was receiving was incorrect. She also felt that the total of £500 that Aviva had offered Mr R in respect of the distress and inconvenience it'd caused him was fair and reasonable.

After our investigator had issued her view, she sent a follow up email to Mr R's representatives on 21 March 2023. This referenced an earlier explanation for the impact of the addition of a 10-year guarantee period on an annuity. It said:

*"The policy has the benefit of a guaranteed annuity rate (GAR). Where the policyholder requires a pension where no GAR exists, a hybrid rate is provided.*

*The hybrid rate is a combination of the GAR for a similar pension option and current annuity rate for that annuity option. The different basis could be the addition of spouse's pension, guarantee period, escalation, etc.*

*The calculation used for the hybrid rate is:*

*$$\text{GAR} + (\text{current rate for required option} - \text{current rate for GAR option})$$*

*The GAR rate increases with the move to a 10-year guarantee and so has a significant effect on the pension figure."*

In May 2023, Mr R raised a new complaint through his representative about what he felt

were the incorrect annuity rates Aviva had provided. He didn't think he'd ever had an adequate response about the questions he'd raised on this. So he still felt he'd been disadvantaged by the incorrect rates.

Mr R said that based on the correct figures Aviva had presented, the April 2021 quote had offered an annuity rate of 6.55%. But the November 2021 quote had offered an annuity rate of only 5.9%, despite being quoted on what he felt were broadly the same terms. He didn't understand how the addition of a 10-year guarantee had reduced the rate so significantly.

Mr R also noted that a 10-year guarantee period made almost no difference to the annuity rate offered when looking at Open Market rates with Aviva on the same terms.

Mr R said he'd felt obliged to take the annual annuity of £8,035.82 due to his concern that the quote would expire on 20 February 2022. He said he'd had no assurances from Aviva that it would further extend the expiry date until after he'd returned his application form. Mr R felt this was poor practice.

The investigator who considered Mr R's initial complaint wrote to Aviva on 17 October 2023 to tell it that Mr R wanted to raise a new complaint and that it should look into that as a separate matter.

Aviva issued its final response to the complaint on 21 November 2023. It acknowledged that Mr R didn't believe the annuity rates it'd provided were correct. But it explained that the addition of a 10-year guarantee period had a significant effect on the annuity rate and therefore the pension amount. It said that when the GARs had been calculated, there was a higher cost involved in guaranteeing payments for 10 years than there was now.

Aviva said that if it'd quoted for an annuity with a 10-year guarantee period paid quarterly in arrears on 14 April 2021, the annual income would've been £7,521.19.

Aviva said that based on the 10 November 2021 fund value of £136,231.75, and using current immediate annuity rates, an annuity with a 100% spouses' pension, payable monthly in advance, with RPI escalation and no guarantee period would pay £9,385.22 a year. And that an annuity with a 100% spouses' pension, payable quarterly in arrears, with RPI escalation and a 10-year guarantee period would pay £8,023.19 a year.

Aviva said that its actuarial team had confirmed that one of the reasons GARs were significantly cheaper than current annuity rates was that they had been calculated at a time when life expectancy was significantly shorter than it is now. Therefore a 10-year guarantee period was more likely to kick-in, making the cost difference between an annuity with no guarantee and one with a 10-year guarantee significant.

Aviva acknowledged that Mr R and his representative had been frustrated by the lack of a clear explanation about the level of annuity rates. It said that it'd referred this matter to its actuarial team more than once. And confirmed that the rates it'd now provided were correct. It therefore didn't agree that Mr R was receiving a lower annuity amount than he should've been entitled to.

Aviva acknowledged that Mr R had felt rushed into accepting his annuity, due to his concern that the quote would expire. But said it'd followed its standard process.

I understand that Mr R's representative contacted Aviva on 21 February 2024 as it was still concerned that Mr R's annuity wasn't correct.

On 29 February 2024, Aviva wrote to Mr R's representative. It said that the maximum GAR

under Mr R's policy was on the following basis: Annually in Arrears, Level, no Guarantee, Single Life. It said that any other basis would be calculated on the hybrid rate. It also confirmed that Mr R's annuity was correct.

Aviva replied further on 4 March 2024. It apologised for its delayed response, noting that the request hadn't immediately been picked up due to staff movements. It offered Mr R £150 for the inconvenience it'd caused. But it said that its actuarial team had checked the pension value being paid to Mr R and had confirmed it was correct.

Mr R brought his complaint to this service, through his representative, in May 2024. It wanted to understand whether the annuity rate Aviva had used was correct. In particular, it questioned:

- Whether the correct retirement age had been used for the annuity quoted on 10 November 2021, given the quote had stated that Mr R was entitled to a GAR from age 65, whereas the 14 April 2021 quote had stated that Mr R was entitled to a GAR from age 74.
- Whether the correct fund value had been used for the annuity purchase. Mr R was specifically concerned that the figure Aviva had now said should've been used for its 14 April 2021 quote might not be correct.
- Why the addition of the 10-year guarantee period had changed the annuity rates so much. It felt that the change should've been much lower, in line with the reduction in comparable rates from the Open Market.

Mr R said he hadn't cashed the last two cheques Aviva had sent him, for £350 and £150 respectively, as he felt that Aviva had yet to fully understand and address his complaint.

Our investigator didn't think the complaint should be upheld. She felt that Aviva had provided satisfactory evidence to show that Mr R had been provided with the correct pension fund value following the April 2021 misprint. She was also satisfied that the detailed breakdowns of the quotes Aviva had provided to Mr R were sufficient to clearly explain how his GAR could affect the yearly income he received. Therefore, in the absence of any evidence from Mr R that the annuity he's receiving is incorrect, she said she wouldn't ask Aviva to do anything further.

Mr R didn't agree with our investigator. He felt that the effect of the guarantee period hadn't been fully considered. He also felt that this service needed to further consider the retirement age used.

As agreement couldn't be reached, the complaint has come to me for a review.

### **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'm not going to uphold it. I know this will be disappointing for Mr R. I'll explain the reasons for my decision.

Before I consider the complaint, I agree with our investigator that as this service has previously investigated Mr R's complaint about delays, my decision won't comment further on those. Instead, it will focus on Mr R's specific questions about his annuity and whether there's any evidence that he's being paid an incorrect amount.

As our investigator noted, this service can't check Aviva's numbers or carry out its own calculations. But we can consider whether there's any evidence that the annuity in payment is incorrect.

I first considered the effect of the addition of the 10-year guarantee period

#### *The addition of the 10-year guarantee period*

Mr R's representative acknowledged that Aviva has addressed this query by providing the formula they would use to calculate a 'hybrid' annuity rate. But it said it was difficult to determine whether that formula had been applied correctly. It felt that the only comparator it had was the difference between Open Market rates for the addition of a guarantee period. And noted that the difference there was negligible.

While I acknowledge Mr R's concerns here, I can't reasonably agree that Aviva has failed to calculate the correct annuity rate based on the addition of the 10-year guarantee period. I also consider that Aviva has taken reasonable steps to explain the significant impact of this addition. And that it would be unreasonable to ask it to provide further calculation details, as these would potentially be commercially sensitive.

I say this because I'm satisfied that Aviva's explanation of how it calculates a hybrid rate, alongside its explanation of why the addition of the 10-year guarantee period has a much greater impact to the rates it can offer under the GAR than it does to current annuity rates, is reasonable. I can also see that Aviva has explained that the "best" GAR Mr R could've taken would've been a level, single life pension with no guarantee period.

To clarify further, when the GAR rates were calculated many years ago, policyholders weren't expected to live as long as they're now expected to. This means that the GAR rates now look very good when compared with current rates, because they're based on the expectation that the pension wouldn't be paid for as long. But when a 10-year guarantee period is added, the GAR rates get considerably worse, because this now ensures that the pension will be paid for at least 10 years.

Overall, I've not been provided with any evidence that Aviva incorrectly calculated Mr R's annuity due to the addition of the 10-year guarantee period.

I next considered whether there's any evidence that Aviva used an incorrect retirement age for Mr R's annuity calculation.

#### *Did Aviva use the correct retirement age for Mr R's annuity?*

Mr R's representative said that the annuity Mr R had accepted from November 2021 had quoted a GAR from age 65. It felt that neither Aviva nor this service had acknowledged or considered that this wasn't correct. It felt there was no evidence that either the income or the annuity rate offered actually applied to Mr R, who was 10 years older than the age quoted.

While I understand why this point has caused confusion, the 10 November 2021 quote simply stated that Mr R was entitled to a GAR from age 65, which I believe to be correct under the terms of the policy. While it would've been helpful if this quote had stated Mr R's correct age here, I'm satisfied the quote was based on the Mr R's correct age.

I say this because I've been provided with documentary evidence that the annuity that Aviva set up for Mr R was based on a birth date which is the same as that provided on Mr R's complaint form to this service.

Overall, I've not seen any evidence that Mr R's annuity is incorrect. Therefore I can't reasonably uphold the complaint.

### **My final decision**

For the reasons explained above, I don't uphold the complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 13 November 2024.

Jo Occleshaw  
**Ombudsman**