

## **The complaint**

Mr G has complained that Aviva Life & Pensions UK Limited didn't give him any guidance or information about his options, particularly concerning tax, when he contacted it in to draw funds from his pension plan.

## **What happened**

Mr G contacted Aviva in April 2023 as he wanted to withdraw funds from his pension plan which he held with Aviva. Mr G thought that he could draw a percentage as a tax free lump sum.

During the course of the call, Aviva enquired of Mr G as to whether he'd received and read the booklet it had sent him regarding his options, to which Mr G replied that he definitely had.

Aviva also asked whether Mr G as to whether he would like to discuss his options again, but he declined.

Aviva informed Mr G that, because of the type of plan he held, he wouldn't be able to withdraw just the tax free cash (25% of the pension fund). Rather, he would need to fully encash his pension plan. Aviva said that the other options open to Mr G were to take an annuity with the remaining 75% or to transfer to another provider. It reiterated that Mr G could only take full encashment if he wished to take the 25% tax free cash but not transfer or annuitise with the remainder.

Aviva asked Mr G whether he'd spoken to Pension Wise, which is a free and impartial guidance service, and Mr G confirmed that he hadn't. It enquired as to whether he would like it to make an appointment for him, but Mr G declined as he said that he felt he had a good enough understanding of what was available.

Mr G was then asked whether he'd spoken to an independent financial adviser, to which he replied that he had done some years earlier and was confident about how to access further advice if needed. Mr G also confirmed that he held other pension plans.

Aviva then confirmed that, although Mr G would receive 25% of the fund value tax free, the remaining 75% would be taxed at an "emergency" rate, and that Mr G may be liable for further tax dependent upon his financial circumstances.

And then finally Aviva told Mr G that he would receive a quotation for the plan value within five days and that if he decided to proceed, it would be irreversible.

After taking the plan as a lump sum withdrawal, Mr G then referred the matter to this service in April 2024.

Our investigator considered the complaint, but didn't think it should be upheld.

In summary, and on the basis of the information which Aviva had provided to Mr G over the phone and by post, he thought that Aviva had acted appropriately in providing Mr G with the necessary detail about his options.

He said that, in addition to the information set out above in the call with Mr G, Aviva had said in the options letter that he should read the contents and that, if he was unsure of anything he could contact Pension Wise or MoneyHelper, both of which were free services and government backed.

The investigator noted that the letter also set out full details of how much Mr G would receive as tax free cash and then how much tax he would pay on the remainder. At this stage, Mr G wasn't committed to the withdrawal, and he had the option of seeking independent financial advice if he wanted to ensure he was making the right decision. But it seemed that Mr G instead chose to proceed with the full encashment, the investigator added.

Overall, he concluded that Aviva had provided Mr G with sufficient detail to enable him to make an informed decision about his options.

Mr G disagreed, however, saying that his mental health at the time hadn't been taken into account. He said that Aviva should have realised that he was making a terrible decision in encashing his pension plan and should have queried as to why he was doing so.

The process was transactional, Mr G added, and Aviva should have enquired as to whether he'd read its complex paperwork.

The consequences of his actions weren't articulated in enough detail and at the right level for him. Aviva should have asked questions as to why he wanted the money and what he wanted to do with it, in addition to enquiring as to whether there was a way it could help him fix a problem which didn't involve him losing money.

The investigator acknowledged Mr G's additional points, but wasn't persuaded to change his view on the matter. In support of this position, he said that there were no indications in the call he'd listened to that Mr G was a vulnerable customer who was in a bad place.

Further, he said, it wasn't Aviva's role to tell Mr G that he was making a bad decision by encashing his pension plan. It did ask Mr G as to whether he wished to discuss his options further and this would have provided it with an opportunity to talk about what Mr G wanted to access the money – but Mr G declined this offer.

Mr G also declined the offer of Aviva arranging a free appointment with Pension Wise on the basis that he had a good understanding of his options, the investigator said.

The investigator reiterated that Aviva had also provided Mr G with information on how the withdrawal would be taxed.

Mr G requested that the matter be referred an ombudsman for review, saying that he felt that the prescriptive guidance offered by Aviva in this case was limited in its effectiveness to help people like him understand true outcomes based on their personal context.

Aviva's actions were simply a method of ticking an internal legal box, Mr G added.

As requested, the matter has now been referred to me for 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.

And having done so, whilst I appreciate this may disappoint Mr G, I've reached the same

overall conclusions as the investigator, and for the same reasons.

I acknowledge what Mr G has said about his mental state at the time, and had this been apparent to Aviva, then it would have needed to ensure that Mr G's best interests were safeguarded by treating him as a potentially vulnerable customer.

But having also listened to the call between Aviva and Mr G, as with investigator, I don't think that this was a situation which was reasonably conveyed to Aviva. Mr G seemed to understand the encashment proposal and answered the questions readily and coherently. There was no indication in my view that Mr G was uncertain of his options or lacked clarity in his thinking.

And so in the absence of such a "flag", I've then considered the information and detail which Aviva did then provide to Mr G in order for him to make an informed decision.

As with the investigator, I think that Aviva did what it needed to do in terms of setting out Mr G's options. It set out the possibility of him being able to access his pension benefits in a different way by either annuitising or transferring to another provider so that Mr G didn't need to fully encash his policy.

Mr G was then furnished with information as to the way his withdrawal would be taxed and was signposted to both Pension Wise and MoneyHelper for further guidance on how he could take his pension benefits. I think it's also noteworthy that Aviva asked Mr G as to why he didn't want to book an appointment with Pension wise, to which Mr G responded that he felt he had a good understanding pensions and his options. Aviva further mentioned that Mr G may wish to seek independent financial advice to discuss his options.

Aviva also asked Mr G as to the purpose of his withdrawal, and whilst Mr G didn't wish to provide a reason, I don't think this in itself would have flagged the circumstances as being concerning. Aviva had also, for example, in the preceding question, asked Mr G whether he was confident that his total pension benefits, including access to the state pension, would be sufficient for him in retirement, to which Mr G responded that they would.

Mr G may consider the process to have been akin to box ticking, but the very reason those boxes need to be ticked is so that the important information as set out above is conveyed to the customer. A business such as Aviva can only take into account personal circumstances which are known to it, and I don't think in this instance it would reasonably have had cause for concern.

Further, it wouldn't necessarily have been the case that an individual wishing to withdraw all of a pension fund as cash should have been flagged as an obviously bad idea, as I think is being suggested by Mr G. There may be many reasons as to why an individual might choose to take all of their money as a cash lump sum – a situation which was envisaged and recognised by the government of the day in implementing the pension freedoms in 2015 which enabled this kind of lump sum withdrawal. And this might quite reasonably be the case especially in situations where, as indicated by Mr G, there were other pension plans which he could access for other pension benefits.

And so, overall, for the reasons given, whilst I appreciate that Mr G may now feel that the withdrawal was a mistake, on an assessment of the facts of the case to determine what's fair and reasonable, I don't think the complaint should be upheld.

### **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 G to accept or reject my decision before 28 October 2024.

Philip Miller  
**Ombudsman**