DRN-5107250

The complaint

Mr H complains about the maturity value he received in respect of several with-profits plans administered and managed by Aviva Life & Pensions UK Limited (Aviva).

Mr H complains that the value of his plans decreased from 2022 to 2023 and he received less than the lowest "LAUTRO" value he had been previously quoted for the plans.

What happened

In 1983 Mr H took out eight with-profits investment plans with an equal amount invested in each plan. These were sold to him by an independent third-party business.

In 1994 he was provided with a projection for one of the plans which gave a high projected LAUTRO figure of £23,000 and a low projected LAUTRO figure of £6,980. These figures were based on assumed growth rates.

In October 2021 Aviva provided Mr H with a projection for the value of his plans at maturity. Unfortunately those projections were not up to date.

In December 2021 Aviva issued an annual statement for the plans which set out their value and outlined the bonuses previously added to each plan.

Mr H complained to Aviva about the projected values he had been provided with in October 2021.

In January 2022 Aviva acknowledged the projections it had provided were incorrect and it gave Mr H new, up to date projections, the values for which were higher than those issued in October 2021. Those projections gave a low, medium and high value based on three different assumed growth rates. Those values were £6,830, £7,150 and £7,490 respectively.

Mr H referred his complaint to our service. That complaint was resolved with the investigator explaining that Aviva hadn't increased the value of his plans as a result of his complaint but that it had updated the projections because it had sent him out of date information about what his plans might be worth at maturity. The investigator also underlined that the projections weren't guaranteed so it was possible that his plans could increase or decrease in value at the maturity date.

In July 2023, following an enquiry from Mr H, Aviva sent him a full cash-in quotation for his with-profits plans. The value for each plan was approximately £7,089.

In August 2023 Mr H complained to Aviva. He said that the value of his plans had decreased since 2022, and he was unhappy that the return on the plans was only a small amount over the projected low LAUTRO value.

Aviva didn't uphold Mr H's complaint. It said that it had checked its processes to ensure the correct amount had been paid out and it was satisfied the maturity value was correct. Aviva said that investment performance had caused a drop in rates just before maturity, which was something that was out of its control.

In September 2023 Mr H received letters setting out the payment made to him for the maturity value of the plans and those letters also included a breakdown of how the payment was made up with annual and terminal bonuses separated out. The amount paid for each plan was approximately £6,949.

Mr H referred his complaint to our service. He said he requested and received a cash-in quotation in July 2023, and it showed the value had dropped by about £395 per plan since the last forecast in 2022. He said this indicated the value of his plans was only approximately £109 over the low quoted LAUTRO figure of £6,980.

Mr H also said he was disappointed the plans had performed poorly over the 40 years he had held them. He also noted that he had complained the year before and he said that Aviva had increased the values as a result because there had been a miscalculation.

Our investigator considered Mr H's complaint and was of the view that it should be upheld in part.

The investigator didn't think that Aviva had acted incorrectly with regards to the maturity value of the plans. He said he was satisfied that Mr H was aware that the performance of the plans wasn't guaranteed and subject to stock market fluctuations, and that Aviva had set this out to Mr H in its correspondence.

The investigator said since Mr H had made his previous complaint, there had been several factors such as the continued war in Ukraine and rising inflation which had impacted investment growth and he was satisfied that these were factors that were outside Aviva's control. The investigator noted Mr H's disappointment with the maturity value, but he considered the timing of the surrender was unfavourable.

However, the investigator didn't consider that Aviva had responded properly to the concerns Mr H had raised about the maturity value for his plans. So he said Aviva should pay Mr H £150 for the distress and inconvenience it had caused him.

Aviva didn't accept the investigator's view and said it responded to Mr H's concerns and had provided him with an explanation in August 2023.

As no agreement could be reached Mr H's complaint was referred to me for review.

I issued a provisional decision where I concluded that the complaint shouldn't be upheld.

Both parties were given an opportunity to respond with any representations they wished to make. Neither of the parties made any further representations.

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 my decision remains as set out in my provisional decision for the reasons outlined there.

An extract from my provisional decision is reproduced below and forms part of this decision.

Provisional decision

"*What I've provisionally 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.

The first thing to highlight here is that these plans weren't sold to Mr H by Aviva. So Aviva wasn't responsible for the suitability of the plans. Its role was limited to administering and managing the plans.

I should also note that Mr H's previous complaint was about the projected values issued in October 2021, whereas this complaint is about the cash-in quotation issued in July 2023 and the amount he received in September 2023. However, some of the same arguments relating to the LAUTRO value have been raised in both complaints.

The plans held by Mr H were with-profits plans. The way those plans work are that they have a guaranteed amount (the basic sum assured) and in addition to that guaranteed amount, annual bonuses are added to the plans. Whether an annual bonus is added, and the amount of each annual bonus will depend on the performance of the with-profits fund.

There is also a terminal bonus which is added at maturity. Again, the amount of that bonus depends on investment performance.

So while projections can be made on what bonuses may be added to the guaranteed value of the plan in the future and accordingly, what the value of the plan might be, those projections will be based on assumptions about investment growth in the future.

Projections are given on different assumed investment growth rates. Those figures aren't therefore a guarantee that the plan will achieve the growth rate quoted in either the high, medium or low growth rate category.

So, while I appreciate Mr H's disappointment that his plans have now paid out an amount that was lower than the low growth figure on a historic projection he had previously been given, that doesn't mean that Aviva has acted incorrectly, as all the rates are based on assumed future growth not actual rates of growth.

I am also satisfied that the projections provided to Mr H by Aviva included wording that made it clear these figures weren't guaranteed.

In 1994 Mr H was provided with a LAUTRO high and LAUTRO low projection. There was further explanation in relation to the projections further on in the letter where it said:

"PROJECTION BASIS:

In order to provide an indication of the possible benefits that might be paid under this policy, LAUTRO (the regulatory authority for the marketing of Life Assurance and Unit Trusts) has made rules which lay down two bases on which future benefits may be illustrated.

Any figures quoted above comply with the rates of return and other factors as set out in the LAUTRO bases.

Where only one projected figure is given this represents the guaranteed sum payable, unless stated otherwise. Any other illustrations have been calculated using a future rate of return of 10.0% per annum on the higher illustration and 5.0% per annum on the lower."

I note this letter referred to "possible" rather than guaranteed benefits.

I also note that the LAUTRO projections used rates that were mandated by the regulator at that time based on likely bands of performance. They were supposed to give an idea of likely *but not guaranteed, outcomes over time but they aren't something that firms could or should be held to.*

In the projection provided to Mr H by Aviva in October 2021 (albeit I note the figures were out of date) it set out the following:

"Important notes

The actual value payable, unless guaranteed, will be calculated using the price that applies on the date we receive all our requirements and may be more or less than the one that applies at the date the request is made. At maturity it will be based on the price on the maturity date.

Projected values

The amount payable may be more or less than that shown.

Please note the low rate is not the minimum rate the policy may achieve. What you get back depends on how your investments grow. You could get back more or less than this.

Your plan may pay back less than you have paid in.

Do not forget that inflation may reduce the spending power of your income."

Then in Mr H's December 2020 statement, issued in December 2021, it explained:

"Looking to the future

We'll continue to review regular bonus rates each year and final bonus rates at least twice a year, taking into account changes in the underlying investment values. Future bonus rates are not guaranteed and may go down as well as up at any time to make sure the benefits paid out remain close to the value of the underlying investments."

And:

"We've not shown the final bonus rate on the statement because investment conditions mean the figure could change during the year.

** The guaranteed amount on which bonus is added is the sum assured (excluding any temporary benefits) as shown in your policy documents.*

*** If your policy remains in force unaltered this is the minimum amount we'll pay at the date the policy comes to an end. If this policy is cashed in early, the amount we pay may be lower than this."*

When Aviva wrote to Mr H in January 2022, in response to his complaint, it set out the up-to-date projected maturity values and it also outlined the potential for negative growth to impact the maturity value and explained that the projected values weren't guaranteed.

It said:

"These show projected maturity values on 21 September 2023 as follows:

If investments grow at 5.6% a year, £7,490.00 would be paid.

If investments grow at 2.6% a year, £7,150.00 would be paid.

If investments fall at -0.40% a year, £6,830.00 would be paid.

Based on the above projections, provided there isn't negative growth leading up to the maturity date, your policy is currently on track to exceed the minimum LAUTRO value you've *quoted. The projected maturity values aren't guaranteed and will change with reviews to the surrender basis, premiums paid and bonus rate changes."*

Then when Mr H's December 2022 statement was issued in May 2023, Aviva said:

"The final bonus rate is not guaranteed and may be reviewed before the maturity date. We review final bonus rates at least twice a year, usually around January and July. In the future we may review final bonus rates more frequently than twice a year, or during months other than January and July. If your policy has more than one guaranteed amount tor bonuses, different final bonus rates may apply."

It also said:

*"***This value is correct at 31/05/23. The value may go up or down depending on investment conditions and may be different at a later date."*

Finally, in the cash-in quotation sent to Mr H in July 2023, Aviva set out again that the value wasn't guaranteed where it said:

"The full cash-in value quoted above is not guaranteed. If you do cash in your policies, the amount you receive could be higher or lower than this depending on how your investments perform in the meantime. The actual value that would be paid will be based on the next published price after we have received your cash-in form and any other required items."

So, I am satisfied on balance that Aviva made it clear to Mr H that the values given in the projections weren't guaranteed and that there wasn't a "minimum" value save for the guaranteed part of the plan.

Decrease in "value" from projections in January 2022 to quotation in July 2023 and again in the maturity value paid to Mr H in September 2023

Mr H has expressed his disappointment that the full cash-in quotation he received in July 2023 for an amount of approximately £7,089, was lower than some of the projections (mid and high) he received in 2022.

He says the value dropped between 2022 and 2023 and he also points out the amount he was paid per plan in September 2023, was also lower than the July 2023 cash-in quote.

As I have said, the projections don't guarantee a particular maturity value and I am satisfied on balance that there were specific references to the possibility that the maturity value could be lower than the projected value, in the correspondence in January 2022, and in July 2023, as outlined earlier in this decision. While I acknowledge that Aviva told Mr H in January 2022 that his plans were on track to achieve the minimum "LAUTRO" value he had referred to, it also included an important caveat that this was "provided there isn't negative growth leading up to the maturity date."

I also take into account that when Mr H complained, Aviva checked the correct maturity value was paid out and confirmed there wasn't any error. Overall I'm not persuaded the amounts paid were unfair or reflective of anything but the correct operation of the plans and the performance of the underlying investment funds.

So, I am not persuaded on balance that Aviva has acted incorrectly or unfairly with regards to the maturity value paid to Mr H for these plans.

Information provided to Mr H

I also have to consider whether the information provided to Mr H by Aviva was clear, fair and not misleading and whether it was sufficient to enable him to understand how the value of his plans was made up and the impact of investment performance on his plan in broad terms.

I can see that Mr H was provided with annual statements which gave him the value of his plans, showed the total bonuses paid and indicated the amount of annual bonus for that year.

I can also see that the maturity letters sent by Aviva in September 2023 gave a breakdown of how the maturity value of the plans paid out was made up.

I also note that the annual statements referred Mr H to further information about how the fund was managed and how bonuses were paid. They included the following information:

"How we manage our with-profits funds

If you'd like to find out more you can visit withprofitsfunds.co.uk. Here you'll find:

●an explanation of how our with-profits funds work

●more information on market value reductions and bonuses

●specific information about the Aviva Life & Pensions UK Limited FP With-Profits Sub-Fund including:

-our Principles and Practices of Financial Management (PPFM)

-customer friendly PPFM summary

-supplementary information, including investment returns

-Board report to with-profits policyholders

If you need a paper copy, just get in touch with us."

And as I have said, I think Mr H was warned by Aviva that investment performance could impact the value of his plan, and I consider this was also outlined in the cash-in quote issued in July 2023.

I note that the response from Aviva in August 2023 outlined the reason for the change in value in broad terms, although I note it didn't indicate specific investment factors. It said:

"I've done a thorough investigation into your policies to see if any mistake was made on our part for the drop in value. I found all processes have been followed correctly. It just so happened investment performance caused a drop in rates soon before your policy is due to mature. This is due to volatility in the market which unfortunately is out of control. "

So I think the information provided in that response, together with information provided previously by Aviva in January 2022 and in July 2023, was sufficient to enable Mr H to understand that the difference between previous projections he had received, and the cash-in quote and maturity payment had been caused by recent investment performance.

On that basis, although I think Aviva could have given a more detailed explanation in its final response to Mr H, overall I think the information it gave was clear, fair and not misleading and it was sufficient in the circumstances, so I won't be asking it to do anything further here.

My provisional decision

My provisional decision is that I don't uphold Mr H's complaint against Aviva Life & Pensions UK Limited."

My final decision

My final decision is that I don't uphold Mr H's complaint against Aviva Life & Pensions UK Limited.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mr H to accept or reject my decision before 12 December 2024.

Julia Chittenden
Ombudsman