

The complaint

Mrs T complains that Aviva Life & Pensions UK Limited ('Aviva') misinformed her about her entitlement to take a tax-free cash lump sum from her personal pension. She says that meant she had to take the whole pension as a lump sum which has incurred tax charges and denied her future investment returns.

What happened

Mrs T had a personal pension plan that she had originally started around 1990 with Commercial Union Life. That policy has since transferred to Aviva, who are now responsible for administering the pension.

Mrs T explains that she contacted Aviva in October 2023 about her pension. And then, in March 2024, she contacted Aviva to take a tax-free lump sum.

Aviva explain to Mrs T that the terms and conditions of the personal pension policy that she held did not allow for the payment of a tax-free lump sum whilst leaving the remaining pension fund invested. Aviva explained that Mrs T would need to transfer her existing personal pension to a policy that allowed flexible drawdown after which she would be able to do what she wanted. Mrs T was unhappy with this response and complained in the call that she was told she could access £4,000 tax free cash when she reached age 55. She wasn't prepared to wait for a transfer to be processed and instead chose to take her whole pension as a single lump sum.

Aviva responded to Mrs T's complaint on 21 March 2024. It didn't uphold Mrs T's complaint. It explained that it had told her that, to achieve what she wanted, she would need to transfer her personal pension to a different policy. It said she could have taken £4,000 tax free cash in that way.

On 27 March 2024 Mrs T called Aviva asking when she could expect payment from her pension. And on 5 April Mrs T was paid the full amount of her pension net of income tax.

Mrs T referred her complaint to our service. She explained that she had been misinformed that she could take her tax-free cash and that mistake meant she had to take all of her pension instead.

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 have listened to the call that Mrs T had with Aviva on 3 October 2023. In that call she was asking about pension information that she had requested for an unrelated claim against with the Financial Services Compensation Scheme. There is no discussion about taking benefits at all.

Aviva explain that they did not have any contact with Mrs T until 18 March 2024 when she called up asking to take her tax-free cash.

I have listened to this call and it is apparent that Mrs T is asking how she can take her benefits. Mrs T explained that the last statement she had from 2022 said that she had a fund around £16,000.

Mrs T said that she knew that she could take £4,000 a year out tax free so wanted to know how to go about that and how long it would take. So I think that, whilst she was aware that she would soon be able to access this pension, I don't think she was clear about what she could take tax free or how long it would take to process her claim. So I am not persuaded that she had been clearly told this by Aviva prior to the call of 18 March 2024.

I have heard that Aviva's call handler explained that she could only take 25% tax free once and that it would take around 10 days to arrange. So Mrs T wasn't told straight away that her personal pension didn't allow this which is unfortunate. And it meant that Mrs T was initially led to think that the payment could be processed within 10 days which was not the case. But I will explain why I don't think that adversely impacted Mrs T.

Aviva's initial call handler transferred Mrs T to the partial withdrawal team that would be able to process her claim to take benefits from her personal pension. That second call handler noted that Mrs T's personal pension was an old policy so checked whether it would allow her to make a partial drawdown. And quickly confirmed that it would not. So any misunderstanding created prior to this call transfer was rectified within minutes.

In the remainder of the call of that date, Aviva informed Mrs T that she could still access her benefits flexibly. But that she would need to transfer her personal pension fund to a different policy that allowed that. It explored whether she had another pension already that could accept the transfer and then explained open market options as well as confirming the options that it offered. Aviva recommended that Mrs C consider seeking independent financial advice about her options. Overall, I think that Aviva handled the call well.

I understand Mrs T's disappointment because she wanted to release cash from her pension quicker than was likely to be the case by transferring to a policy that allowed flexible drawdown. Which meant that she was faced with the options of taking tax free cash from her existing personal pension and purchasing an annuity with the remaining fund, or taking the whole pension pot as a single lump sum.

On balance, I don't think that Aviva misled Mrs T prior to her deciding how to take this pension. She was correctly informed of the options that were available to her. Even if the terms and conditions of her existing policy didn't allow those choices. It was fair and reasonable to let her know that she could access those options, even if that would mean transferring to a new pension product. And Aviva explained this clearly and offered this option to Mrs T.

My final decision

For the above reasons I am not upholding Mrs T's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs T to accept or reject my decision before 17 April 2025.

Gary Lane
Ombudsman