

The complaint

Mr E complains that the tax-free cash he received when he accessed his pension benefits was less than what was cited on the retirement quotation provided to him by Aviva Life & Pensions UK Limited ('Aviva'). Mr E also complains that his residual drawdown fund was less than he had been quoted. Mr E says he has suffered a financial loss and would like Aviva to compensate him.

What happened

In January 2024 Mr E received a retirement options pack from Aviva. Mr E was aged 54 at the time and approximately six months away from his 55th birthday. Aviva told Mr E that as of 18 January 2024 his pension fund/Flexible Retirement Account was valued at £108,333. His normal retirement date was noted as his 65th birthday in June 2034 but Aviva also told Mr E that *"the minimum pension age is currently age 55"*.

In April 2024, Mr E contacted Aviva to enquire about taking his pension and Aviva took Mr E through the timescales involved.

Mr E turned 55 on 20 June 2024 and on 24 June 2024 Aviva sent him a pension quotation by email. Aviva's email thanked Mr E for his interest in commencing income drawdown from his pension and drew his attention to the attached quotation, projections and application form, all based on information he had provided. The email stated, *"The quote attached is valid from 6 months from the date on the letter"*. And it also said that the current timeframe for receiving payment was 20 working days from receipt of the completed application form.

The pension quotation Aviva sent Mr E included a payment summary which confirmed that he had instructed it to move his pension fund/Flexible Retirement Account into Income Drawdown. Aviva said the fund was valued at £116,752 and confirmed that Mr E wanted it to pay 25% of the fund, namely £29,188, to him as a tax-free cash ('TFC') lump sum. Mr E completed the application form and sent it back to Aviva on 19 July 2024. Aviva authorised the disinvestment of funds on 3 August 2024. On 8 August 2024 Aviva authorised payment and sent Mr E a lump sum allowance statement confirming his lump sum of £28,869 had been transferred to him from his disinvested pension fund of £115,478.50.

A few days later Mr E contacted Aviva to raise a complaint. He said the TFC he had received was less than the amount he had been quoted on 24 June 2024. Mr E also said that the quotation he had received on 24 June 2024 was valid for six months so he could not understand how he had ended up with a lower amount.

Aviva looked into Mr E's complaint and issued him with its final response letter on 3 October 2024. Aviva said there had been a misunderstanding as it was never able to guarantee a valuation on a quote. Aviva also said that what it meant when it said the quote was valid for six months was that Mr E could return the application form at any point up to six months after the quote. Further it said that valuations weren't sent until a customer's signed application form was received. And it said that the retirement options pack had made it clear that the valuation was not guaranteed.

Aviva said that during its investigation into Mr E's complaint, it had noticed that it had taken longer than usual to disinvest Mr E's pension and make payment. It said it had found that, by processing Mr E's payment later than it should, his fund had decreased in value by £388.89. So, Aviva said it had paid this amount into Mr E's residual (drawdown) pension fund. It also said that Mr E was owed interest of £47.99 on the delayed payment. Aviva apologised to Mr E for the shortcomings in its service and for the inconvenience he had been caused. It said it had paid him compensation of £100 because of this so that altogether it had transferred £147.99 to his bank account.

Unhappy with the outcome of his complaint to Aviva, Mr E complained to the Financial Ombudsman Service. He said Aviva should pay him the difference between the figures he was quoted in June 2024 and the amount he received in August 2024.

One of our Investigators looked into Mr E's complaint for him but didn't recommend that it was upheld. She said the quotation he had received in June 2024 was intended as a guide only. She also said that she thought Aviva had fairly and reasonably addressed the financial impact its processing delays had caused Mr E so she said she could not ask it to do any more.

Mr E disagreed with our Investigator's findings. He said the word 'guarantee' was unambiguous, not conditional and meant an unequivocal assurance he would receive a certain amount. Mr E also said that if Aviva had been unable to guarantee the amount it was quoting, it should have said so or have explained that the figures were estimates. But using the word 'guarantee' left no room for misunderstanding. Mr E said Aviva was obligated to pay the full sums it had quoted him and he was due the TFC balance of £318.44 and the residual pension balance of £1,274.64.

Our Investigator thought about what Mr E had said but wasn't persuaded to change her mind so the complaint was passed to me. I issued my provisional decision in February 2025 where I explained why I thought Mr E's complaint should be upheld in part. I made the following provisional findings: -

"What I have set out below is not a comprehensive list of the rules and regulations which applied at the time Aviva was arranging the disinvestment of Mr E's pension, but it provides useful context for my assessment of Aviva's actions here."

PRIN 7: A firm must pay due regard to the information needs of its clients, and communicate information to them in a way which is clear, fair and not misleading.

PRIN 12: A firm must act to deliver good outcomes for retail customers.

This complaint turns on what Aviva said to Mr E in its email and quotation dated 24 June 2024. I've thought about how these communications were worded and whether Aviva had due regard to the principles I've mentioned above. In Aviva's email to Mr E dated 24 June 2024, it said "The quote attached is valid for 6 months from the date on the letter."

The quote that was attached starts with Aviva telling Mr E, "You've asked to move £116,752.27...into Income Drawdown. You'd like us to pay £29,188.07 of this amount to you as a tax-free cash lump sum."

The quotation then goes on to say that it is enclosing an Income Drawdown Key Features Illustration showing the current value of Mr E's account and the effect of moving his investments into income drawdown (further down the illustration Aviva explains that Mr E's Income Drawdown Account sits within his Flexible Retirement Account). The illustration enclosed by Aviva was only concerned with Mr E's future residual fund/Income Drawdown

Account and what it could be worth in years to come after having withdrawn TFC of £29,188.07. It states near the top of the illustration that the amount '**designated** to income drawdown is £87,564.20' [my emphasis]. Aviva also stated, "The value of your account **in the future** is not guaranteed and depends to a large extent on the performance of your investments" [my emphasis]. I can see from the illustration that Mr E's residual fund/Income Drawdown Account was to remain invested in the same funds as his Flexible Retirement Account.

Despite the absence of the word 'guarantee' from Aviva's email dated 24 June 2024, I think telling Mr E that the attached quote – a quote that set out specific amounts – was valid for six months, when it wasn't, was misleading. I think that Aviva's email is open to being interpreted in the precisely the way that Mr E interpreted it. Consequently, I don't think it was unreasonable for Mr E to think, on the face of it and having read that sentence, that the quotation he was about to open – and which said when he did open it that he was going to receive TFC of £29,188 – was valid for six months from 24 June 2024.

In reaching my provisional decision, I've thought too about the language used by Aviva in the illustration (as set out by me in the paragraphs above) and whether stating that the future value of Mr E's Income Drawdown Account could not be guaranteed should extend to Mr E assuming that the figures Aviva quoted at the start of the letter were also 'not guaranteed'. Having done so, I don't think it is reasonable to have expected Mr E to make that assumption. I say this because it is clear the statements Aviva makes in the illustration about future values not being guaranteed clearly relate to Mr E's residual fund/Income Drawdown account after his Flexible Retirement Account has been moved and the TFC taken. So, I don't think any use of the words 'not guaranteed' by Aviva in this context can be said to extend to the figures it gave Mr E at the start of the letter.

Aviva has said that there appears to have been a misunderstanding because it is never able to guarantee the valuation on a quote. I don't doubt that this is the case, however, it didn't make that clear to Mr E when communicating with him. The language it used was the language of certainty – it said the quote 'was valid' for six months. If the quote wasn't valid for six months then Aviva should have said so. It should have said to Mr E at some point in the correspondence it had with him on 24 June 2024 that the figures quoted weren't guaranteed or locked-in and they could change right up to the point of disinvestment.

Aviva has sought to explain the statement it made in its email about the validity of the quote by saying it actually meant that Mr E could "return that quote any time up until six months have passed". But that is not what the email said. It said the quotation was valid for six months from the date of the letter. The email did not say Mr E 'could return the quote at any point in the next six months'. If that is what Aviva wanted to convey to Mr E then that is what it should have told him. So, I can't agree with Aviva's interpretation of what it told Mr E. And I don't think – if Aviva was truly trying to tell Mr E that he could return his quote any time in the six months from the date of the letter – that its manner of expressing it can be said to be compliant with the two FCA principles I've quoted above.

For the avoidance of doubt, I don't think that Mr E has 'misunderstood' anything either. If Aviva's intention was to say that Mr E could return the quote at any point in the next six months but it didn't actually say that, then I fail to see how it can't claim Mr E has 'misunderstood' something it never said in the first place.

And, for the reasons I've given here already, I can't agree with Aviva that its retirement options pack made it clear the valuations were not guaranteed. No mention was made that they weren't.

I've asked Mr E what he would have done had Aviva's communications been clear about its processes and had he understood that his pension would remain subject to the risks associated with market fluctuations up until the point it was disinvested. Mr E has said he would have deferred withdrawing his funds. He has said he would have waited until market conditions were more robust so that he could have secured a larger TFC pay-out. He has said that 'put simply, Aviva's use of guarantee as opposed to estimate directly altered my decision making.'

For the sake of clarity, and to repeat what I have said above, I've seen no evidence that Aviva used the actual word 'guarantee' in its correspondence. I can see though how stating a quote was 'valid for six months' could reasonably be interpreted to mean the figures quoted were guaranteed for that period.

I've thought about what Aviva should have done here. I fully accept that Aviva's process is that pensions remain invested, and subject to market fluctuations, until the point they are disinvested. That I fully accept and appreciate is Aviva's position. But I think that Aviva should, in its communications with Mr E about him accessing his pension benefits, have made that process completely clear to him. It should not have told Mr E that the figures it was quoting were 'valid' for six months if they weren't. A correct summation of the situation was that the figures quoted were estimates and in no way guaranteed. But Aviva failed to make that clear to Mr E.

If Aviva had regard to Mr E's communication needs, it should have communicated with him in a way that was clear, fair and not misleading. And unfortunately for Aviva, for the reasons I've given here, I don't think it did that. It told Mr E his quote was valid for six months when it wasn't. And Mr E took what Aviva told him at face value."

I further explained in my provisional decision what I intended to require Aviva to do in order to put things right for Mr E. I said I thought that Aviva should pay Mr E the shortfall between the amount of TFC it quoted he would receive and the amount he did receive (£318.44) and to pay interest on that amount at the rate of 8% simple per year from 8 August 2024 to the date it settled my award. I also explained why I thought that Aviva had put Mr E to some avoidable distress and inconvenience as a result of its misleading communications and processing delays for which I recommended that it compensate him by paying him a sum of £250.

Aviva didn't respond to my provisional decision but Mr E did. His comments can be summarised as follows: Mr E said that whilst he appreciated investment values were not guaranteed, the amount in his residual fund/Income Drawdown pot was permanently lower than the original amount he was quoted on 24 June 2024. Mr E said the original amount he was quoted would now never be recovered and that any future gains he made would be based on the lower residual fund that was eventually transferred to his Income Drawdown account. Mr E provided his own calculation of the effect that starting with a lower residual fund would have over a period of 10 years assuming annual investment growth of 4% per annum. Mr E calculated that as a result of his residual drawdown fund being lower that he had originally been led to believe, he could lose out over the course of a decade to the tune of £1,388.68. So, he said, no matter what growth he achieved, his residual pot would never reach the potential it could have done had Aviva honoured its original quote.

The complaint was passed back to me for a final decision.

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've thought carefully about the comments made by Mr E has made in response to my provisional decision but it has not caused me to change my provisional findings. I'll explain why.

As I explained in my provisional decision, I accept that at the time of the disinvestment, the residual portion of Mr E's pension that was moved to income drawdown was lower to the tune of £1,274.64 than had been quoted by Aviva in its letter of 24 June 2024. It also remains the case however, that the residual portion of Mr E's pension remained invested in the same funds after disinvestment as it had before. Thus, had Mr E not chosen to disinvest his pension – as he says he would not have done had he known his TFC would be lower – his pension would have remained invested and exposed to the same market fluctuations in any event.

Whilst I've noted Mr E's loss calculation in respect of his Income Drawdown account the figure he has calculated is a hypothetical one. It cannot be known at this stage if his Income Drawdown account will remain entirely invested for another 10 years or that it will achieve annual net investment growth of 4%.

And whilst the residual fund that Aviva moved to Income Drawdown had reduced in value between receipt of Mr E's disinvestment instruction and the point it was processed, Aviva has made good the loss in value the fund experienced between these two points in time so that Mr E has not lost out. Further, as I also explained provisionally, Mr E has not accessed his residual fund yet and it remains invested thus no loss has crystallised. It remains subject to future market fluctuations – whatever they may be.

It follows that, with regret for the disappointment I know this will cause Mr E, I can't reasonably require Aviva to do any more than it has already done by adding £388.89 to his retirement account.

Putting things right

As I've said above, I accept that at the time of the disinvestment, the residual portion of Mr E's pension that was moved to income drawdown was lower to the tune of £1,274.64 than had been quoted by Aviva in its letter of 24 June 2024. But Mr E has not drawn down this part of his pension so no loss has crystallised. It remains invested and can go down as well as up in value. This is the nature of investment performance. As Mr E knows, in January 2024 his pension was valued at c£108,000 but by June 2024 it was valued at c£116,000. Given his monthly contributions were just £50, the growth he experienced was almost all due to investment performance.

Mr E's residual fund did experience an actual loss however which was due to Aviva's late processing of his Flexible Retirement Account. But I can see that Aviva has already compensated Mr E for the loss in value his account experienced and has paid him £388.89. Given that Aviva has already made good the investment loss on this part of Mr E's pension plan and, given it remains invested in the same way, under the same conditions that it always has, I don't think a loss has been suffered by Mr E such that I should be requiring Aviva to make good.

So, I'm not going to ask Aviva to do anymore in relation to Mr E's residual fund/Income Drawdown Account. Aviva's payment of £388.89 into this account fairly addressed any loss in value it experienced as a result of Aviva's processing delay, thereby making good the dip in value it experienced.

I also think that interest of £47.99 Aviva paid Mr E in respect of the late processing of his pension is fair and reasonable in the circumstances.

With regard to Mr E's TFC, I can see that Mr E received £318.44 less than he had been quoted by Aviva. I have explained above why I think Aviva's communications with Mr E were misleading and unclear. I think they led him to believe the amount of TFC it quoted him was valid for six months from 24 June 2024. Mr E has explained that he relied on the quotation he was given and, had he understood it was just an estimate, he would have deferred taking his TFC. For these reasons I think that Aviva should pay Mr E the sum of £318.44.

As Mr E has not had access to this amount since 8 August 2024, Aviva should pay him interest on this amount at the Financial Ombudsman Service's usual rate of 8% simple per year from 8 August 2024 to the date it settles my award.

Where a financial business, through its words or deeds, causes a consumer avoidable distress and inconvenience, the Financial Ombudsman Service can require it to pay compensation. I've thought about what this means for Mr E's complaint. Having done so, and for the reasons I've set out here and provisionally, I think that Aviva has put Mr E to some un-necessary and avoidable inconvenience as a result of its misleading communications. I've thought about the Financial Ombudsman Service's approach to compensation awards in general and I've taken into account the fact that Aviva has already paid Mr E compensation of £100.

Aviva made its compensation payment to Mr E in order to address any inconvenience caused to him by its processing delays. As I've set out above, I am of the view that this was not the only shortcoming in the service provided by Aviva to Mr E. Specifically the shortcomings in Aviva's communications with Mr E have not been addressed.

Looking at the circumstances of Mr E's complaint as a whole therefore, I think Aviva should pay total compensation to Mr E of £250 for the inconvenience its misleading and unclear communications has caused him. If Aviva has already paid Mr E the sum of £100 it need now only pay him a further £150.

My final decision

My final decision is that Mr E's complaint should be upheld. I require Aviva Life & Pensions UK Limited to do the following: -

- Pay Mr E the sum of £318.44 which is the shortfall in the amount of tax-free cash it quoted him and the amount of tax-free cash it paid him.
- Pay Mr E interest on the amount of £318.44 at the rate of 8% simple per year from 8 August 2024 to the date it settles my award.
- If income tax is to be deducted from the interest, appropriate documentation should be provided by Aviva Life & Pensions UK Limited to Mr E for HMRC purposes.
- Pay Mr E total compensation of £250 for the inconvenience it has caused him as a result of its misleading and unclear communications and its processing delays.
- If Aviva Life & Pensions UK Limited has already paid Mr E £100, it need only pay him a further £150.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr E to accept or reject my decision before 9 April 2025.

Claire Woollerson
Ombudsman

