

## **The complaint**

Mr R complains that Aviva Life & Pensions UK Limited has unfairly refused his requests to transfer benefits he holds in a pension plan with the firm.

## **What happened**

Mr R holds pension savings with Aviva. Those savings are held in a Section 32 Deferred plan that provided Mr R with the right to receive a guaranteed minimum pension (“GMP”) amount on his 65<sup>th</sup> birthday. Since Mr R didn’t take his pension benefits at that time the guarantee has continued, but the terms of the plan required him to take his pension by the time he reached his 75<sup>th</sup> birthday. That was in December 2024, so Aviva has allowed Mr R a short extension whilst this complaint is being dealt with.

The pension plan that Mr R holds provides him with a valuable guaranteed pension. Should the value of the pension savings Mr R held be insufficient to purchase that annuity, Aviva would be required to make up any shortfall. Generally, over the past years, Aviva has said that the pension value was less than the cost of funding the GMP. And it told Mr R that the shortfall meant he would be unable to transfer his pension savings to another arrangement in order to use his pension benefits in a more flexible manner.

Mr R had made a previous complaint to Aviva in 2022 about how his pension savings had been invested. At that time Aviva explained that it now thought the value of the pension savings had exceeded the cost of providing the GMP so a transfer might be possible. But Mr R says that he and his financial advisor have made a number of unsuccessful attempts since then to complete a transfer. Aviva has said that, until very recently, the value to Mr R’s pension savings remained below that needed to fund the GMP.

In January 2025 Aviva told Mr R that the value of his pension savings now exceeded that needed to fund the GMP. But since their value was now greater than £30,000 Mr R would be required to take regulated financial advice before any transfer could be allowed. Mr R has said that if the transfer had been permitted earlier, the value would have been less than £30,000 and so could have proceeded without regulated advice.

Mr R’s complaint has been assessed by one of our investigators. He said that he thought Aviva had responded to each of the transfer requests made by Mr R and his financial advisor since 2022. But in any case he hadn’t seen anything to persuade him that the value of Mr R’s pension savings had surpassed the cost of providing the GMP, and so no transfer would have been possible regardless. But the investigator did think Aviva could have been clearer in what it told Mr R in 2022, explaining that any transfer would be dependent on the values at the time of any formal request, and that a transfer could not be guaranteed until those calculations were complete. So he asked Aviva to pay Mr R £200 for the loss of expectation he’d been caused.

Aviva accepted the investigator’s recommendation. But Mr R didn’t agree. So, as the complaint hasn’t been resolved informally, it has been passed to me, an ombudsman, to decide. This is the last stage of our process. If Mr R accepts my decision it is legally binding on both parties.

## **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.

In deciding this complaint I've taken into account the law, any relevant regulatory rules and good industry practice at the time. I have also carefully considered the submissions that have been made by Mr R and by Aviva. Where the evidence is unclear, or there are conflicts, I have made my decision based on the balance of probabilities. In other words I have looked at what evidence we do have, and the surrounding circumstances, to help me decide what I think is more likely to, or should, have happened.

At the outset I think it is useful to reflect on the role of this service. This service isn't intended to regulate or punish businesses for their conduct – that is the role of the Financial Conduct Authority. Instead this service looks to resolve individual complaints between a consumer and a business. Should we decide that something has gone wrong we would ask the business to put things right by placing the consumer, as far as is possible, in the position they would have been if the problem hadn't occurred.

Mr R took out this pension plan in 1987. So the plan, and the terms and conditions under which it operates, do not reflect many of the changes that have been brought about through more recent legislation. When the plan was taken there was an overriding expectation that pension benefits would generally be taken at normal retirement age, or certainly no later than age 75, and would be taken in the form of a lifetime annuity. And in fact that is exactly what is envisaged by the terms of Mr R's plan.

The pensions freedoms reforms that became law in 2015 radically altered the way in which many consumers now choose to use their pension savings. But that presents some difficulties in cases such as here where the benefits are described in the form of an annual annuity (the GMP in this case) but where the consumer would prefer to hold them in the form of an ongoing monetary investment.

If Mr R chooses to take his pension benefits as an annuity, Aviva would be required to ensure that the pension he receives is at least the amount specified in his contract. So if his pension savings were insufficient to allow that annuity to be purchased, Aviva would be required to provide a top up to the pension savings. And in line with most other providers, Aviva restricted a consumer's ability to transfer their pension savings to another provider if the value of the pension savings were lower than those needed to purchase the GMP.

I agree with our investigator that the information Aviva gave to Mr R in 2022, following his complaint at that time, was not as detailed as it should have been. Whilst it does seem that at that specific time Mr R's pension savings were in excess of the amount needed to fund the GMP, Aviva should have made it clearer that position could change at any time. So I will direct that Aviva pays Mr R some compensation for the inconvenience that incomplete information will have caused to him.

Mr R has provided us with some limited evidence of the requests he, and his financial advisor, have made since 2022 to transfer his pension savings to a more flexible product. I accept it is likely that information might not be a complete picture of all the requests that were made as I can see that Mr R's financial advisor has changed its IT system and cannot retrieve some messages. But I can equally see that Aviva appears to have responded to those requests in a timely manner.

Mr R has told us that he didn't always receive the information that Aviva says it sent to him. And that seems to be the case too with a more recent letter he was sent about his pension benefits that our investigator needed to forward on to Mr R. But those letters do appear to be properly addressed and sent to the same address that Mr R has given us in relation to his complaint. Aviva has not told us it has any record of letters to Mr R being returned undelivered. So I cannot reasonably conclude that Aviva has failed to respond to the requests Mr R has made.

But in some ways, even if Aviva had failed to respond, I'm not persuaded that it would have caused Mr R to lose out. The information from those times shows that the pension savings Mr R held were valued at less than the cost of providing the GMP. So that information would have simply confirmed to Mr R that he couldn't transfer his pension benefits at that time.

I have also considered the basis on which Aviva has made those assessments. The nature of the GMP benefits means a calculation of their cost is complex and performed by actuarial experts. It is also obviously affected by external economic circumstances such as interest and annuity rates. I haven't seen anything to make me think that Aviva has failed to correctly follow the relevant regulations in making those calculations. I have no reason to think that the information Aviva has provided to Mr R is incorrect.

As I have said, in January 2025, Aviva confirmed to Mr R that his pension savings were by then valued higher than the cost of providing the GMP. So that would have removed the earlier barrier to a transfer taking place. I must however stress that, as before, the actual situation would not be formally assessed until a transfer instruction was made by Mr R. It would be entirely possible that by that time the situation might have changed and the value of the pension savings no longer exceeded the cost of providing the GMP.

But, as Mr R has been told by Aviva, even if a transfer would be permitted on that basis, it could only proceed once he had taken regulated advice. The pension savings he currently holds provide him with a safeguarded benefit. And their value is now in excess of £30,000.

It is a requirement set out in section 48 of the 2015 Pension Schemes Act that any consumer wishing to transfer safeguarded benefits worth more than £30,000 is required to take regulated advice from an authorised independent adviser. So Aviva has no latitude in how that requirement is implemented. It simply needs to ensure that any affected transfers (including transfers from one Aviva product to another) are supported by advice of the nature I've set out above.

So in summary, I am not persuaded that Aviva has treated Mr R unfairly either in the answers it has provided to the transfer requests he has made, or more recently by telling him he would be required to take regulated advice before any transfer could be permitted. I appreciate how disappointing this decision will be for Mr R, but Aviva's hands are largely tied by the terms of the pension scheme and the relevant pension legislation.

### **Putting things right**

As I said earlier, the information Aviva gave to Mr R in 2022 was incomplete. I think it might have raised his expectations about being able to complete a transfer of his pension benefits in the coming months. I have considered carefully what compensation might be appropriate. And having done so I agree with our investigator that a payment of £200 would be fair and reasonable in all the circumstances here.

### **My final decision**

My final decision is that I uphold a part of Mr R's complaint. I direct Aviva Life & Pensions UK Limited to pay Mr R £200 compensation to put things right as detailed above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 2 May 2025.

Paul Reilly  
**Ombudsman**