DRN-5477581

## The complaint

Mr H complains that Aviva Life & Pensions UK Limited unilaterally changed the investments within his pension without his consent and without informing him. He says he's suffered financial loss as a result.

## What happened

Mr H had a group personal pension policy which he took out in 2001. The policy was set up by his employer at that time with Winterthur Life. The policy is now the responsibility of Aviva – so it is required to deal with Mr H's complaint.

Mr H says his pension was 100% invested in equities – which was his own investment choice. From March 2018, he says Aviva unilaterally changed the investment approach. He says he didn't request this; he wasn't asked to consent to this change; he didn't give permission for the change; and he wasn't informed directly about the changes when they were made. Mr H says that because of the changes Aviva made, his pension has fallen in value in both nominal and real terms. He complained to Aviva.

Aviva investigated his complaint. It said that when the pension was taken out it had been invested in a "lifestyle strategy." It said it understood Mr H's disappointment with how his fund had performed but it explained that global events had affected the funds he was invested in, and it hadn't been able to secure as strong investment returns as it would have liked.

Aviva also explained that because Mr H's pension was invested in the lifestyle strategy, as he got closer to his retirement age it automatically switched his funds in line with that strategy. It said it didn't need permission to do this, and it wasn't required to notify him of the changes either. It said Mr H was responsible for managing his policy and if the lifetime investment programme had ceased to be suitable for him, he could have opted out of this strategy. It referred to the annual statements it had sent him where it said all of this information had been available.

Mr H wasn't satisfied with this response. He referred his complaint to our service. Our investigator looked into his complaint. By way of summary, he said:

- Mr H had chosen the lifestyle strategy in 2001 when he'd started the pension. He thought it was unlikely that Mr H would have done this without knowing the details of how the strategy worked.
- The lifestyle strategy suited consumers who intended to purchase an annuity
- Mr H had given permission in 2001, when he signed the application form, for gradual changes to be made to his funds. There was no requirement to notify him when this happened. However, Aviva had sent Mr H annual statements which provided information about how his funds were invested.
- The onus was on Mr H to have told Aviva if he wanted to change the strategy or how his funds were invested.
- It was the case that the pension had decreased in value. Our investigator thought this was because of global events which were outside of Aviva's control.

So, he didn't think Aviva needed to do anything further to resolve the complaint.

Mr H did not agree. He made several points which, by way of summary, were:

- He didn't expect the pension to perform in a way which led to a "massive destruction" in value. If he'd put his funds into a savings account in 2019, rather than leaving them in the pension, it would have performed much better. Aviva should be held accountable for its actions.
- Although our investigator had listed factors which had a negative impact on investments – he'd failed to list the other factors which had been positive.
- He did not give Aviva permission in 2001 to make gradual changes to his pension. Infact, he'd never chosen to be with Aviva at all. And he'd never given any authority for it to invest his pension in an Aviva fund.
- He didn't think it was right that he hadn't been given any notice of the changes at the time when they were made. He compared this to what happened when the term ended on a fixed term deposit. He always got notice of such an event. He thought that was illustrative of what the default behaviour of a financial services organisation should be and was customer centric.
- Aviva's unilateral decisions had been "awful" for him, and he'd suffered financial loss.
- He thought there was a systemic bias in favour of Aviva. He pointed to the assumptions which our investigator had made which he said evidenced this. For example, our investigator had said it was "very unlikely" Mr H would've chosen the lifestyle strategy without knowing the details. Mr H disputed this. In 2001 he believed it was sensible to invest in equities given that it would be over 20 years before he would start thinking about drawing on his pension.

Our investigator considered what Mr H had said. He reiterated that our service was impartial. He thought that if Mr H had been unsure about the strategy he could have raised it at the time. That was why he'd said he believed it was "very unlikely" Mr H wouldn't have known the details about how the lifestyle strategy worked. He also referred again to the information on the annual statements which had been sent to Mr H. He didn't change his view that Aviva had treated Mr H fairly.

Because Mr H didn't agree, the complaint has been passed to me to decide.

## 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.

1. <u>What happened in 2001?</u>

I've looked at the application form which Mr H signed on 6 November 2001. He applied for his employer's group personal pension. The application form included a section entitled "Investment Allocation." Mr H was asked to choose either of the options listed. If he didn't make a choice his contributions would be automatically invested in the lifestyle strategy. The form records that Mr H did make a choice. He ticked the "[employer's] Lifestyle Strategy." The other option was to make his own choices from a list of funds.

At the end of the form there was a declaration which Mr H signed. It said that Mr H confirmed he had read the announcement and materials labelled "[employer's] Group Personal Pension." He also declared that he understood and agreed that the proposed benefits would be included in an appropriate arrangement in accordance with Winterthur Life's practice at the date of acceptance - details of which were available on request.

I asked Aviva to provide copies of the materials which are referred to on the application form which Mr H signed. It says that because of the passage of time it isn't able to provide these. So, I'm unable to comment further on what the materials stated.

However, it is the case that the application form records that Mr H confirmed he had read these materials before ticking the box to opt into the lifestyle strategy. And although I haven't been able to see or read the materials he was provided with at the time, a lifestyle strategy typically means that investments automatically shift to lower-risk assets as the consumer approaches their target retirement age. There's no evidence to suggest that the lifestyle strategy which was set out in the materials provided to Mr H at the time would have been different to that which typically applied. So, I'm persuaded, on balance, that when he signed the application form, Mr H was giving his consent to the lifestyle strategy being applied to his pension.

When reaching that view, I've also had regard to the information Mr H was provided with in the statements he was subsequently sent – which I'll comment on further below.

2. What happened when the policy became the responsibility of Aviva?

Next, I've considered what happened when Aviva became responsible for the pension.

In 2017, the transfer of this policy (together with other policies) to Aviva had to be approved by the High Court as part of a process set out in legislation. Aviva has provided a copy of the letter it was required to send to all policyholders at the time and it says Mr H would have been sent this letter. The letter provided information about the proposed transfer and details about what a policyholder could do if he/she objected to the transfer. It also included information about rebranding of the names of investment funds to the Aviva brand.

Mr H says he never chose Aviva nor gave it permission to invest his pension in an Aviva fund. However, having considered the information that was sent in 2017, I'm satisfied that he was informed that his pension was being transferred to Aviva and that the funds his pension was invested in would be rebranded to Aviva. The transfer was approved by the High Court and I'm satisfied Mr H was made aware that Aviva would be responsible for his pension following the transfer. That would also have been clear to him when he started getting statements and correspondence from Aviva.

3. What information was provided to Mr H about the implementation of the lifestyle strategy in the period after 2018?

The crux of Mr H's complaint is that Aviva changed how his funds were invested without his consent and without informing him.

As stated above, when Mr H commenced his group personal pension he selected the lifestyle strategy. That meant he was agreeing that his funds would be invested according to that strategy which, I'm persuaded, on balance, included the arrangements to gradually transfer the funds from investments with greater exposure to the stock market into funds which were categorised as more cautious. So, for the reasons stated above, I don't think there was any requirement to seek his further consent when the lifestyle strategy was being implemented in line with what had been agreed at the outset.

This change of investments started five years before Mr H's selected retirement age.

It appears from the information on his annual statements that Mr H's selected retirement date was age 60. I asked Aviva to comment on why that date had been selected. It says it doesn't have any of the original material other than the application form. And the application form didn't include the option to select a retirement date. However, it says it's likely the selected retirement date was age 60. Aviva also says that appears to be the default retirement date for the scheme.

Having considered everything, I'm persuaded, on balance, the default retirement age for the scheme was probably age 60. When reaching that view, I've taken into account the fact that the application form refers to providing a personal illustration "on the basis of an expected age of 60, even though this may not be your contractual retirement age." And I've also noted that the annual statements sent to Mr H in the period up to June 2022 all referred to a selected retirement date of age 60.

Based on the selected retirement age of 60, the change in investments would have started in 2018. Mr H thinks he should have been informed when this change in investments started. He thinks that's fair and in line with what he would've expected. He's referred to how financial organisations have to inform customers when fixed rate investments mature. So, he thinks that should apply to the lifestyle strategy. He also comments that such an approach is customer centric.

I've thought about what Mr H has said here. It is the case that when Aviva started to transfer Mr H's investments into lower risk funds, it was doing so in line with the terms and conditions which applied to his policy. His contract had not ended. A new contract was not being put in its place - but rather the terms he'd agreed to were being fulfilled.

It is also the case that the regulatory requirements which apply to fixed rate investments are different to those that apply to pensions. The Financial Conduct Authority (FCA) has published guidance about how its rules apply to lifestyling strategies. In its Policy Statement, "Pension reforms – feedback on CP15/30 and final rules and guidance" (PS16/12) (published in April 2016) the FCA reiterated that in broad terms its rules and guidance required firms to provide consumers with "sufficient information" for them to make an informed decision about the suitability of their current and future investment strategies.

So, I've considered the information which Aviva provided to Mr H on his annual statements in the period after 2018 (which was the start of the five year period before his selected retirement date).

The covering letter with the 2018 annual statement stated:

> *"We recommend that you review the information contained in these items to ensure that you are on track to achieve the level of income you are hoping for at retirement. The level of contributions you make and your investment choices are key factors which you should consider as these will determine the overall size of your pension fund. Both should reflect your personal circumstances and be appropriate for how you intend to access your benefits; this may be as cash sums, a regular income – as shown in this statement, or as income drawdown…."*

Each of the annual statements set out how the funds in Mr H's pension were invested and included the overall fund value of his plan. More detail about the value of his investments was provided which included the name of each fund that the pension was invested in, the number of units allocated to each fund and the corresponding value of each fund. There was also information about whether there'd been an investment gain or loss during the statement period.

The 2018 annual statement provided the first indication that the lifestyle strategy was being implemented – that's in line with the date which was five years before his selected retirement date. It showed that some funds had been transferred from the Aviva Pension BlackRock

(60:40) Global Equity Index Tracker fund to the Aviva Pension Fixed Interest and the Aviva Pension Money Market funds. In each of the subsequent years, the annual statements provided information which showed that a greater proportion of his funds was being invested in the Fixed Interest and Money Market funds. In the annual statement dated 2022, the information provided showed that all of Mr H's pension was invested in these two funds. So, I'm not persuaded, on balance, that Aviva didn't provide Mr H with sufficient information about the changes in how his funds were being invested.

I've also noted that each of the annual statements during the period from 2018 to 2022 included the following statement:

> *"**Lifetime investment programme***
> *Your plan is invested in the Lifetime 1 investment programme which stops at age 60. This is designed to manage your investments for the term of your plan. As part of the investment programme, your investments will be moved into lower risk funds during the 5 years before age 75 or your selected retirement age if lower.*
>
> *This approach gives your plan more potential in its early years while helping to reduce the effects of any dramatic falls in the stock market in the later years when your plan has less time to recover. Please note there is no guarantee that the strategy will prove beneficial to your pension fund.*
>
> *The switch process to gradually move your plan into lower-risk investments has already started. If you think the lifetime investment programme is no longer suitable for you, it is possible to opt out. Please contact us if you want to do this. If you are happy to remain in the lifetime investment programme you do not need to take any action.*
>
> *You can find further details of the lifetime investment programme in your plan's documentation. To help you consider your options we strongly recommend that you take financial advice.*
>
> ***Advantages***
> - *The investment programme offers an alternative to having to change your investments independently as you head towards retirement.*
> - *During the period leading up to your retirement, your pension fund is moved from funds with a greater exposure to the stock market into more cautious investments. This helps reduce your exposure to risk from stock market fluctuations.*
> - *Your investment programme can be amended if you choose to take your benefits earlier or later than planned.*
> - *You can choose to leave the investment programme at any time.*
>
> ***Disadvantages***
> - *There is no guarantee that the investment programme will prove beneficial to your pension fund.*
> - *The value of your investments, even in lower risk funds, can fall as well as rise and the value of your pension fund is not guaranteed.*
> - *Taking your retirement benefits earlier or later than planned may have an impact on your investment programme, and may mean that it is no longer suitable for your individual circumstances."*

The covering letter with the annual statements also included a section entitled "What you should do now." This listed a number of actions that Mr H could take including: considering all the information provided and thinking about whether his plans for retirement had changed or if any changes to his circumstances might affect those plans; speaking to a financial advisor to discuss changes to his plan's investment funds or changing his retirement age; and speaking to other contact points such as The Pensions Advisory Service.

Having read the information on the annual statements and the covering letters, I'm satisfied on balance that Aviva did provide sufficient information to make Mr H aware that his pension was invested in its lifestyle strategy and that there were both advantages and disadvantages associated with that strategy.

The information provided stated that Mr H's investments would be changed to lower risk investments in the five years prior to his selected retirement date – which was recorded as age 60.

He was informed that the switch process to gradually move his plan into lower-risk investments had already started. And he was told there was no guarantee the strategy would prove beneficial to his pension fund.

Mr H was also informed that he could ask Aviva at any stage during this period to change how his pension was being invested or to opt out of the lifestyling arrangements.

So, having considered everything, I'm satisfied on balance Aviva did provide sufficient information to enable Mr H to make an informed decision about the suitability of the investment strategy that applied to his policy. Mr H didn't ask Aviva to make any changes.

In January 2023, following a request made by Mr H to defer his selected retirement date, Aviva wrote to him and confirmed that it had changed his selected retirement date to age 74. However, by that stage the implementation of the lifestyle strategy meant that Mr H's investments had already all been transferred to lower risk funds and the whole of his pension was invested in Fixed Interest and Money Market funds.

The letter setting out confirmation of the deferral of his selected retirement date included information about how his funds were invested. It also stated:

> ***"Investment programme***
> *Please note that your lifetime investment programme is now scheduled to end on your new selected retirement date.*
> *Lifetime investment programmes manage investments for the life of the plan, but will also move investments into lower risk funds in the years before retirement."*

Although I think this wording could have been clearer – to reiterate that the move to lower risk funds had already been implemented and there would not be any further changes in how his funds were invested – the pension projection which accompanied the deferral letter showed that the growth rates used were based on the two funds Mr H held at that time – the Fixed Rate and Money Market funds. Subsequent statements dated June 2023 and June 2024 also indicated that Mr H's pension remained invested in the Fixed Interest and Money Market funds. If Mr H was concerned about this or disagreed with it, I would've expected him to have raised it at the time. There's no evidence he raised his concerns prior to December 2024.

4. <u>The performance of Mr H's pension policy.</u>

For the reasons set out above, I'm satisfied Aviva didn't do anything wrong when it invested Mr H's pension in line with its lifestyle strategy. That means his funds were ultimately invested in the Aviva Pension Fixed Interest XE and Aviva Pension Money Market IE funds.

I've looked at the Fund Fact Sheets which provide further information about the aims and objectives of the funds which Mr H's pension was invested in.

- Aviva Pension Money Market IE – the aim of the fund is to offer returns in line with money market rates and to preserve the value of the investment. The Fund Fact sheet states that the aim of lower risk funds such as this fund is typically to provide growth at a similar level to bank interest rates but returns are not guaranteed. The fund's risk rating is "1" which is the lowest risk rating and the information provided states that these funds have the lowest potential for long term returns.

- Aviva Pension Fixed Interest XE – the aim of the fund is to achieve long-term growth from a combination of income generation and capital growth. The fund invests mainly in UK government securities and other sterling denominated fixed interest and index linked securities. The fund's risk rating is "3." The Fund Fact sheet explains that this risk rating applies to funds investing in assets like corporate bonds or a mix of assets where day-to-day changes in value have historically been less than for shares. However, there is still a risk that the value of the investment could fall.

Having read the Fund Fact sheets I'm satisfied, on balance, these two funds were "lower risk" and the movement of Mr H's investments into these two funds in the five year period prior to his selected retirement date was in line with the lifestyle strategy he'd chosen when he commenced his pension.

Aviva has acknowledged it too was disappointed at how these two funds had performed. It has pointed out there were reasons why that was the case – including various global events which had occurred. The Fund Fact sheets provide further information about the performance of the funds. They show that the Funds performed broadly in line with the sector average during this period. And, I haven't been provided with any evidence to show that the funds were not managed in line with their stated aims and objectives.

Having considered everything, I'm not persuaded Aviva has done anything wrong here. So, I don't require it to have to take any further action to resolve this complaint.

## My final decision

For the reasons stated above, I do not uphold this complaint about 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 15 October 2025.

Irene Martin
**Ombudsman**