DRN-5573127

The complaint

Mrs M complains that Aviva Life and Pensions UK Limited ('Aviva') mis-sold their pension lifestyle investment programme to her. She went on to say her pension fund has suffered large investment losses as a consequence of her following that approach which she believes Aviva are responsible for.

Mrs M states that her plan has gone down in value by around £20,000 and she'd now like Aviva to recompense her for those losses.

What happened

In 2010, an Aviva stakeholder pension plan was set up for Mrs M by her employer at the time. As the plan was arranged by her employer to accept payroll contributions, no advice was provided by Aviva on either the suitability of the plan or the funds that Mrs M's monies were subsequently invested into. Aviva say that their lifestyle option was selected at inception by either Mrs M or her employer which meant that as she neared her chosen retirement age, her monies would gradually be phased into investments considered lower risk.

The lifestyle programme was designed to move her monies into lower risk investments as she neared her 65th birthday. And, in or around early September 2024, several months after Mrs M had reached her selected retirement age, she logged into Aviva's online portal to review the progress of her plan and was alarmed to see the value was far less than she was anticipating.

In September 2024, Mrs M decided to formally complain to Aviva. In summary, she said that she felt the lifestyle programme was mis-sold to her and that she was unhappy as her pension fund had lost a significant amount of money as a consequence. In addition, Mrs M stated that she was also dissatisfied that Aviva had referred her to their chatbot when she questioned the makeup of the funds within her online portal as she believed they weren't reflective of what she was supposed to be invested in.

After reviewing Mrs M's complaint, Aviva concluded they were satisfied they'd done nothing wrong. They also said, in summary, that the lifestyle option would have either been the default option for the employees when joining the employer's pension scheme or it would've been selected by her. Aviva stated that they hadn't given any advice and as such, what fund to invest in was her choice.

Mrs M was unhappy with Aviva's response, so she referred her complaint to this service. The complaint was then considered by one of our Investigators. He concluded that Aviva hadn't treated Mrs M unfairly; that's because even if a fund hasn't performed as hoped, it doesn't necessarily mean that the business has done something wrong. Our Investigator went on to say that he'd not seen any evidence of Aviva having provided Mrs M with any advice and as such, the decision to invest in any particular fund was her decision alone.

Mrs M, however, disagreed with our Investigator's findings. In summary, she said:

- She was advised and encouraged by Aviva's representative at the time of the pension being introduced that the lifestyle option was the safest plan for her age.
- Around the time of COVID, she was aware that pension funds were suffering but was confident by what she'd been told by the Aviva representative that her fund would be looked after.
- Aviva told her that they now have new lifestyle plans available and the original arrangement she took out may no longer be suitable for her. Mrs M felt that her plan had been "pushed into the wasteland" by Aviva as they were more interested in their newer products.
- Aviva told her that the regulator won't allow them to change their customers' funds from underperforming options to better arrangements.
- She didn't understand why when there were very good funds showing on Aviva's platform, her monies were invested in their poorly performing options.

Our Investigator was not persuaded to change his view as he didn't believe Mrs M had presented any new arguments he'd not already considered or responded to. Unhappy with that outcome, Mrs M then asked the Investigator to pass the case to an Ombudsman for a 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 have summarised this complaint in less detail than Mrs M has done and I've done so using my own words. The purpose of my decision isn't to address every single point raised by all of the parties involved. If there's something I've not mentioned, it isn't because I've ignored it - I haven't. I'm satisfied that I don't need to comment on every individual argument to be able to reach what I think is the right outcome. No discourtesy is intended by this; our rules allow me to do this and it simply reflects the informal nature of our service as a free alternative to the courts.

My role is to consider the evidence presented by Mrs M and Aviva in order to reach what I think is an independent, fair and reasonable decision based on the facts of the case. In deciding what's fair and reasonable, I must consider the relevant law, regulation and best industry practice. Where there's conflicting information about what happened and gaps in what we know, my role is to weigh up the evidence we do have, but it is for me to decide, based on the available information that I've been given, what's more likely than not to have happened.

I can imagine how concerned Mrs M must have been in seeing the value of her pension fund fall in value as she neared taking her benefits. Losing money at any time can be worrisome, and that's even more so when nearing retirement. But, having carefully considered both sets of submissions, I'm broadly in agreement with our Investigator – and as such, I am not upholding Mrs M's complaint. And, whilst I fully appreciate that Mrs M will be disappointed by my decision, I'll explain why below.

It would seem that Mrs M's Aviva pension pot was built up from her time at a previous employer. It's important to note here that the funds within her pension were selected not by Aviva, but by Mrs M's former employer. And, despite what Mrs M says, Aviva didn't provide any financial advice to her about the plan itself or the funds that then followed when the plan was set up – Aviva say that her employer arranged for their own advisers to provide information to their employees. Typically, what tends to happen is that when an employer sets up a scheme, they, along with their financial advisers select a set of funds which they feel would be broadly suitable for most employees (and don't take account of the individual circumstances of each employee). But importantly, the option exists for each employee to alter the 'default' fund their monies were being placed into to suit their own needs

I've looked closely at the underlying investments within Mrs M's plan and it seems her previous employers selected an option called 'life styling', which is fairly common amongst many employer-based schemes. This is where investments within the pension plan are gradually moved into what are considered (in normal times) lower risk funds, such as fixed interest and gilt funds, as the scheme member approaches their selected retirement date. The result is that when the member wants to start taking benefits upon retirement, their pension is invested largely in a mix of investments which are less exposed to stock market volatility but still offer some growth potential. But importantly, this approach doesn't remove all of the risks and that's because those fixed interest funds are impacted by changes in interest rates and other market factors. As interest rates rise, as they did do on a number of occasions over the last three years, a fall in the value of those fixed interest funds is then often seen.

But importantly, at the same time there will typically be an increase in annuity rates (an annuity is a product that provides the consumer with a guaranteed income for life in exchange for their pension lump sum). So, although Mrs M's fund value had fallen, its annuity purchasing power may appreciate. This is different to a loss that might be incurred in a higher risk fund when annuity rates might be falling. Obviously, that would only be beneficial if Mrs M was taking a guaranteed income rather than accessing her monies flexibly.

I also think that it's important to acknowledge that Aviva have no control over how investment markets perform and unfortunately, Mrs M's pension, like those of many other consumers, has been impacted by significant world events. And, whilst I can consider complaints about investment performance, in most instances, I would need to see evidence that Aviva had done something wrong and I can't just rely on actual or perceived poor performance. That's because, even if the fund has underperformed compared to the rest of the market, we don't usually think this proves the fund was mismanaged. Many consumers have seen the value of their pension funds fall over the last 24 to 36 months given the economic conditions not just across the UK, but wider financial markets too. So to be clear, this isn't just an Aviva issue, and it's something many other consumers are having to face at other businesses too.

I've looked carefully at a number of years' annual statements (from 2016 to 2023) that Aviva provided to Mrs M. The statements all provide clear warnings that the benefits from the plan aren't guaranteed, and that Mrs M should regularly review her investments to ensure that they're on track to meet her objectives. They also highlight that if Mrs M is in any doubt about how her pension is being managed, she should contact them, or importantly, speak to a financial adviser. So, I'm satisfied that Aviva were indicating the need for Mrs M to start considering her options and this can be seen as early as the 2016 statement.

In addition, I've also seen Aviva's letter to Mrs M from October 2016 where they explained that her seven-year lifestyle investment programme would start in six months' time. Their letter set out that from April 2017 to April 2024, her monies would be gradually moved into lower risk funds automatically as she neared her chosen retirement age of 65. And, whilst that letter highlighted the benefits of the lifestyle programme, it was equally as balanced by clearly explaining the disadvantages – for example, even the value of funds considered lower risk can fall as well as rise and there were no guarantees the benefits that she'd receive would be any better than the funds her monies were already in.

But, it wasn't just Aviva's October 2016 letter that highlighted the risks of adopting a lifestyle strategy. In the annual statements that I've seen, the risks of the lifestyle strategy were repeated, clearly explaining that such an approach had drawbacks and if Mrs M was uncertain whether it was suitable for her circumstances, she was "strongly recommended" to seek financial advice.

The annual statements explained that there are disadvantages with the lifetime investment programme which are:

- There is no guarantee that the strategy 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.

So, despite what Mrs M has said about her monies not being at risk of falling in the lower risk funds, I am satisfied that Aviva have made it clear in their communications that they offered no warranties about either the lifestyling investment approach taken or the fact that her monies could not fall beyond a certain level. I'm also of the opinion that their explanation of how the approach works, would be understood by most consumers who had limited knowledge of pensions and investments, so I'm not persuaded that she was misled by Aviva.

But, even if Aviva's letters and statements hadn't set this out, I'm not persuaded that Mrs M would have done anything differently. I say that because she's made no mention of her desire to pursue a different investment approach and only raised a concern about the investment strategy when her monies were falling rather than when her pot was enjoying periods of growth.

Importantly, Mrs M wasn't paying Aviva to provide her with any financial advice. As such, their primary responsibility was to manage her pension to her selected fund and risk choice – and from what I can see, they've done just that. Whilst Mrs M may be of the view that Aviva should have been more proactive about how her monies were invested and moved her funds out of the gilts and corporate bonds, when markets started reacting in the way that they did, they weren't providing her with advice. However, even if Aviva had the permission to move her monies into other investments, there was no guarantee that alternative fund would have performed any differently than her existing selection, given the unique market conditions that have been experienced. Importantly, there's no such thing as a zero risk fund because even cash funds are at risk of being eroded by inflation.

Mrs M says she doesn't understand why, when there were very good funds showing on Aviva's platform, that her monies were invested in their poorly performing options. But, it's important to note here that Aviva didn't have the permission to move Mrs M's monies into other investments; if Mrs M wanted her funds managed in an alternate manner, she would've needed to have instructed Aviva to do so. Aviva's role is to manage the money in line with the risk profile and objectives of the fund until they've been specifically told to do so otherwise by the plan holder or their financial adviser. Had Mrs M wanted personalised guidance on whether the funds she was invested in were appropriate for her circumstances or whether, as she says, her money should've been moved into something else, she would've needed to have paid for either a financial adviser to provide that guidance to her (on which fund she should move her monies to) or sought fact-based information from Aviva.

The costs associated with Mrs M's plan covered the management of the underlying monies and a charge for the wrapper (or plan) that her monies are sat in. Mrs M wanted Aviva to review her investments and feels it mismanaged her retirement fund by failing to do so – but Aviva is not Mrs M's financial advisor, and they simply act on the instructions she provides. It isn't for Aviva to ensure that any investment decisions are suitable for Mrs M's needs – those were essentially decisions Mrs M needed to make for herself. And, the annual management fees associated with the fund do not extend to Aviva provided tailored guidance to her; they only cover the cost of running the fund to the fund's very specific mandate.

Aviva aren't there to advise Mrs M on what to do in times of difficult economic conditions or point out when her pension had gone down in value by a certain amount; their primary responsibility is to act as the custodian of her pension monies and take direction from her on how she wants those monies invested. That specific responsibility would typically fall on a financial adviser for which Mrs M would have to pay an additional fee. Mrs M has explained that she was astounded when she recently looked at Aviva's portal and saw that her fund had fallen by so much. It's not clear if that's the first time Mrs M looked at her plan online because Aviva have explained that as Mrs M has now moved her pot away from them, they can only see limited details of her past log-ins. Despite that, if Mrs M didn't have online access, she did have access to their telephone helpline which could have kept her informed of how her funds were performing and the helpline was signposted in the statements that Aviva sent to her. So, I'm satisfied that Mrs M didn't need to wait until late 2024 to find out the value of her fund as she had other means of keeping track of her investments as she has done previously during the pandemic and could've made alterations to it if she was unhappy.

I have seen that Aviva's website provides comprehensive information for its consumers about the range of funds and the risks associated with them that are available, had Mrs M not wished to go to the expense of paying for an adviser to direct her. Allied to this, Mrs M was regularly made aware of the importance of seeking out advice. The regulator sets out the timing and content of the regular statements that need to be issued to pension investors. And I've not seen anything to suggest that those statements weren't issued regularly to Mrs M – all of which highlighted within them warnings that she should review the ongoing suitability of her investments to ensure they remained appropriate for her needs.

Mrs M has also made reference to how Aviva presented the information about the funds she was invested in online. Since Mrs M has since switched her pot away from Aviva, they've not been able to provide any information about what she would've seen when she logged in. But, from the statements that I've seen of Mrs M's account, I've not seen any evidence to suggest that her monies weren't in the correct funds and Aviva have been able to confirm that Mrs M's savings were correctly invested for her age in the lifestyle profile.

I think that Aviva has met its obligations in the information it provided to Mrs M and in carrying out the investment strategy set with regard to the particular funds that she has invested in. So, whilst I appreciate that my decision will be disappointing for Mrs M, I don't agree that Aviva has treated her unfairly or done anything wrong. Therefore, I don't uphold her complaint.

My final decision

I'm not upholding Mrs M's complaint and as such, I won't be instructing Aviva Life and Pensions UK Limited to take any further action.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs M to accept or reject my decision before 27 June 2025.

Simon Fox
Ombudsman