

## The complaint

Mr L complains that Aviva Life & Pensions UK Limited (“Aviva”) failed to treat him fairly when it calculated the value of his pension savings before paying him a pension commencement lump sum.

## What happened

I issued a provisional decision on this complaint last month. In that decision I explained why I didn’t think the complaint should be upheld. Both parties have received a copy of the provisional decision but, for completeness, I include some extracts from it below. In my decision I said;

*Mr L holds pension savings with Aviva. In August 2024 Mr L decided to use his pension savings to provide him with a pension commencement lump sum (“PCLS” – otherwise known as tax-free cash) and some income. Mr L spoke with Aviva on 1 August and on the following day Aviva provided him with a written statement of his estimated retirement benefits. Mr L accepted Aviva’s quotation electronically at 12:11pm the same day.*

*When Mr L received his PCLS it was around £974 lower than had been indicated on the information Aviva had sent to him. Mr L complained to Aviva about the discrepancy. Aviva explained that the information it had sent to Mr L clearly explained that the values shown were only estimates, and the actual value of his pension savings would be calculated when all the required information had been received. It told Mr L that the investments he held were only priced once each day, so the actual selling price wasn’t known until close of business that day. Unhappy with that response Mr L brought his complaint to us.*

*The investments that Mr L held within his pension plan were unitised investment funds. Investments of that nature are generally not priced on a “live” basis. So any purchases or sales of that investment will take place at set times each day. An investment fund will generally consist of a basket of “live” traded assets. So it would be unfair to allow trades to take place based on historical prices. Doing so would allow investors to decide whether to buy or sell based on intraday price changes of the component assets that have not yet been reflected in the overall pricing of the investment fund.*

*So I am satisfied that the way Aviva dealt with the sale of Mr L’s pension investments, in order to realise sufficient cash to pay the PCLS and requested income, was fair. And I think Aviva’s actions were in line with the relevant terms and conditions of the pension plan. For sales of investments such as Mr L held, those terms say that;*

*Cancellation of units takes place using the unit price that we:*

- (i) next make available depending on the time the request (together with all our reasonable requirements) is received by us, but we reserve the right to use a later unit price if the use of the next available unit price*

- would allow you or someone acting on your behalf to use already known market data to your benefit; or
- (ii) next make available on the day you specify if this day is later than the day above; or
  - (iii) next make available on the day on which a cancellation is necessary under the terms of the policy.

Mr L submitted his instructions to Aviva at 12:11pm on 2 August 2024. Aviva says that the next available price for the sale of the investments was generated at the close of business that day. So I think it right that the value of Mr L's pension savings, used to calculate the PCLS he was entitled to receive (that being 25% of the value of his pension savings) was only known after the instruction had been placed. And so I think the amount of PCLS that Mr L received was what he was entitled to under the terms of his pension plan.

Mr L says that the information Aviva sent to him was headed up, and described, as a quotation. He says that the word quotation has a specific meaning and would suggest that the sums mentioned are what he could reasonably expect to receive. But I'm sorry to tell him that I don't agree.

I accept that in some circumstances specific words, such as quotation, might infer a degree of promise that those terms might be met. But the information sent to Mr L was clearly headed up as showing an "estimated plan value." It told Mr L that the actual value would only be known once Aviva had received all the information it needed to proceed. And it warned Mr L that the values shown on the information were not guaranteed and might go down, as well as up in any interim period.

Mr L's circumstances were a little different to normal. He decided to proceed with his retirement plans on the same day that he received the information from Aviva about his plan value. And given what I will go on to discuss now, it is possible that he might have been confused by the information Aviva had given him the day before by phone. I don't think it was entirely unreasonable for Mr L to think that, since he was accepting the quotation on the day it was issued, that Aviva already had sufficient information to calculate his retirement benefits.

Mr L spoke with Aviva on two occasions on 1 August to discuss taking his pension savings. I have listened to recordings of those telephone calls. In particular I want to highlight what was said to Mr L towards the end of the second call.

On that call Mr L appeared keen to understand when the value of his pension savings would be calculated. The call handler from Aviva told Mr L that the moment Aviva received the final instructions the sale of his investments, and the price, would be set in stone. Mr L replied by saying he was just concerned that knowing his luck a stock market crash would follow his decision to sell his pension investments. Aviva finished off by warning Mr L that it could take up to 15 working days for the payment to be issued but again reassured Mr L that the value of the payment would be set on the day that the documentation was received.

I think Aviva could have dealt with Mr L's questions much better – and explained more clearly that his instruction to sell his pension investments would not be priced until the next price was made available later in the day. What Aviva told Mr L, although it could be argued to be correct since the decision to sell and the price would be fixed at that time (albeit not known until later in the day), did give him an expectation that the quotation he'd received that morning was likely to reflect the amount he would receive.

*But I'm not persuaded that the shortcomings in the information Aviva gave to Mr L caused him to lose out. As I've explained above I think Aviva acted correctly and in line with the terms of the pension plan in the way it calculated the value of Mr L's pension savings. So even if Mr L had been given better information those same pricing principles would have applied.*

*I have also considered whether Mr L might have chosen to take his pension benefits at a different time. But I'm not persuaded that is sufficiently likely. Of course any consumer would like to know the value of any transaction they instruct before giving a final confirmation. But in the case of Mr L's plan that would never be possible – the nature of the investments he held means that any sale would always be on the basis of a future price. It is impossible to predict, with any degree of certainty, whether unit prices will fall or rise after a sale instruction is given. Here, unfortunately, the sale price fell. But I think it equally likely that the price might have risen. I'm not aware of any significant market turbulence that would have made Mr L think it likely that a price fall would be expected and so caused him to delay his decision to take his pension benefits.*

*So on balance I don't currently think this complaint should be upheld. Whilst the information Aviva gave to Mr L by telephone was less comprehensive than it might have been, I think the written documentation on the terms and conditions of the plan clearly sets out there would be a delay to the pricing of any cancellation of investment units. I don't think, even if he had been given better information, Mr L would have made a different decision about the timing of taking his pension benefits. So I don't currently think this complaint should be upheld.*

I invited both parties to provide us with any further comments or evidence in response to my provisional decision. Aviva has said it has nothing more to add. Mr L has provided us with some additional comments. Although here I am only summarising what Mr L has said I want to reassure him that I have read, and carefully considered, his entire response.

Mr L says he finds the uncertainty of buying and selling fund based investments to be frustrating. He says he cannot understand why institutions such as Aviva cannot complete outstanding transactions before the fund prices are updated for use on the following day.

Mr L still believes that the document he received headed "Quote" should imply a degree of certainty in the transaction. He says that returning that document before the deadline set by Aviva should have guaranteed him the selling price shown. Whilst Mr L accepts he was most likely not deliberately misled, the reality is that the conversations he had and the information he was sent did mislead him.

### **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.

As I set out in my provisional decision, 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 L 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.

And I repeat my reflections 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.

I thank Mr L for the additional comments that he has sent to me following my provisional decision. But I am sorry to tell him that what he has said hasn't caused me to alter my view of his complaint. I would however like to comment further on some of the matters he has raised.

The way in which the buying and selling of fund based investments operates is very different from the markets for equities. An investment fund, by its nature contains a range of assets each of which will be actively traded during a working day. So, as those intraday price movements occur, the underlying value of the whole investment fund will also change. But the valuation of an investment fund is complex – so the valuation is only performed once, or sometimes twice, each day.

But, as I explained in my provisional decision, those intraday price movements of the underlying assets will give an indication of whether the previously published fund price is likely to move, and in which direction, at the next pricing point. So allowing purchases and sales to take place based on a historic price would be unfair.

I understand why Mr L is frustrated that unit funds cannot be traded in the same way that for example equities can be bought and sold. But that isn't because of the way in which Aviva chooses to operate – it is simply a reflection of the design of those products and the way in which they are priced and sold. Mr L would find exactly the same experience if he were to buy and sell these investments through any other provider.

I am still not persuaded that the "quotation" that Aviva sent to Mr L had any binding nature. Whilst I accept that in some circumstances a quotation might indicate a promise for a transaction to be completed as set out, here I think the additional wording on the document makes it clear that prices and values are likely to change when the instruction is completed. And I think the terms and conditions applicable to the pension plan set out when that information will be finalised.

So my conclusions remain unchanged. On balance I don't think this complaint should be upheld. Whilst the information Aviva gave to Mr L by telephone was less comprehensive than it might have been, I think the written documentation on the terms and conditions of the plan clearly sets out there would be a delay to the pricing of any cancellation of investment units. I don't think, even if he had been given better information, Mr L would have made a different decision about the timing of taking his pension benefits.

### **My final decision**

For the reasons given above, and in my provisional decision, I don't uphold the complaint or make any award against Aviva Life & Pensions UK Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 12 August 2025.

Paul Reilly

**Ombudsman**