

## **The complaint**

Mr J has complained to Quilter Financial Services Limited (“PensionLite”) about the advice and service he received while trying to purchase an annuity.

## **What happened**

Mr J was selling his home and moving abroad. He wished to use £850,000 from the proceeds of his house sale to purchase an annuity. The house sale was due to complete on 12 July 2024 and he was emigrating the same day.

Mr J had carried out extensive research and had concluded that he wanted to take an annuity with Canada Life. However, as the funds for the annuity weren’t coming from a pension, Canada Life requested that Mr J apply for the annuity through a financial adviser.

In mid-June 2024, Mr J contacted PensionLite. At the time PensionLite was an appointed representative of Quilter. Responsibility for dealing with the complaint therefore lies with Quilter.

PensionLite had several telephone calls with Mr J between 20 and 28 June 2024. During these calls a fact find document was completed and on 28 June 2024, PensionLite issued its recommendation to Mr J.

Although Mr J had told PensionLite that he wished to take an annuity through Canada Life, PensionLite recommended Mr J take one through Aviva instead. Its reason for this was that the Aviva annuity would provide a higher annual income.

Mr J told PensionLite that he wished to go ahead with the Aviva annuity. PensionLite submitted the application to Aviva on 10 July 2024 and explained the funds would be transferred on 12 July 2024. Unfortunately, although the sale of Mr J’s house completed on 12 July 2024, Mr J was unable to arrange for the funds to be transferred to Aviva before he left the country and he was unable to make the payment by cheque as his chequebook had been packed by the removal firm.

After leaving the UK, Mr J was unable to transfer the full amount to Aviva in one payment due to limits on his telephone banking. So he began transferring £50,000 - £100,000 a day (the maximum daily amount allowed from two bank accounts) to Aviva. By the time Aviva received the full £850,000 it was necessary for it to recalculate the annuity as the initial quotation had expired. While doing so, it noticed that one of the accounts it had received Mr J’s payments from hadn’t been verified and didn’t match the account details on the Aviva application form. So it requested a bank statement displaying a current address for Mr J. Mr J provided the requested information the same day but Aviva rejected the evidence as the address on the bank statement was the address for the property Mr J had just sold. Mr J then provided a rental agreement for a property he owns in Cornwall. Aviva was unable to accept this as Mr J didn’t reside there – he was renting the property out.

On 19 August 2024, Aviva confirmed that it would not be able to proceed with Mr J’s annuity application and would be returning £850,000 to the source accounts. Aviva has since

confirmed that this was because it was unable to pin-point and evidence where Mr J was residing.

Mr J complained to PensionLite about the advice to purchase an annuity from Aviva. In summary he said Aviva wasn't his preferred provider as he wanted to purchase an annuity with Canada Life. Canada Life had assured Mr J it would be able to process his application as long as he applied before he emigrated. However, Mr J accepted PensionLite's recommendation as he deferred to its expert opinion. Mr J has also said PensionLite was fully aware he wanted to obtain an annuity and that he was due to emigrate imminently. He says it recommended a product which he wasn't eligible for via a provider he didn't want and now he's been left without an annuity at all.

Mr J also felt PensionLite was unhelpful when facilitating the transfer of funds to Aviva. It refused to comply with his bank's request to be given access to his everyday saver account without offering an alternative. Mr J feels this led to delays and ultimately the rejection of the application.

Quilter didn't uphold the complaint. It said that after Mr J had been unable to make the payment before leaving the UK, PensionLite sought alternative methods from Aviva for how Mr J could make the payment. And it liaised with Aviva and Mr J while he was making payments to ensure both parties were up to date. PensionLite considered that Mr J met Aviva's published eligibility requirements and it had done all it could have been expected to do to ensure the annuity application would proceed. It also explained that it thought the advice provided by the adviser to take the Aviva annuity had been suitable. So PensionLite didn't uphold the complaint.

Mr J referred his complaint to this Service for consideration.

### *Our Investigator's opinion*

One of our Investigators reviewed matters and thought the complaint should be upheld. In summary the Investigator concluded that:

- It is well documented that Mr J made clear to PensionLite he would be emigrating on 12 July 2024 and would therefore no longer be a resident of the UK for tax purposes after this date. The target market statement for the Aviva annuity said that to be eligible the annuitant had to be "*Resident of the UK (UK Tax Payer) for tax purposes*". But there was no evidence to demonstrate PensionLite sought clarification of the information in the target market statement from Aviva at any stage prior to recommending the Aviva annuity.
- Aviva had provided a copy of an email it sent to PensionLite on 15 July 2024 which contained the statement "**PLEASE NOTE AVIVA IMMEDIATE LIFE ANNUITIES ARE AVAILABLE TO UK RESIDENTS ONLY**". So, Aviva made the eligibility criteria generally available to advisers and specifically mentioned the relevant criteria to PensionLite.
- The information available to PensionLite ought to have led it to ask questions of Aviva before recommending the annuity.
- Although the application confirmed Mr J was resident for tax purposes abroad, this didn't mean he wasn't a dual resident. The inclusion of a primary UK residence on the application meant Aviva was unaware of the issue with Mr J's residential status until it attempted to verify the source of funds for the annuity purchase in August 2024. Mr J was unable to demonstrate he had any residential status in the UK at this stage and was therefore ineligible to purchase the annuity.

- The eligibility criteria for the Canada Life Annuity confirmed that “*Individuals must be a UK resident when purchasing the product*”. So even if Mr J had been able to issue a cheque to Canada Life on 12 July 2024, it would’ve been required to clear before the purchase could be processed and Mr J would no longer have been a UK resident for tax purposes and therefore would not have been eligible to purchase an annuity with Canada Life either.
- In terms of the impact of PensionLite’s errors on Mr J, between 28 June and 19 August 2024 he was led to believe he was able to purchase an annuity and obtain the guaranteed income for life he wanted. So Mr J suffered a loss of expectation as a result of PensionLite’s error. He also unnecessarily transferred £850,000 to Aviva to purchase a product he was not eligible for and was therefore deprived of the use of these funds.

To put things right the Investigator recommended that PensionLite calculate and pay 8% simple interest on each £50,000 payment from the date the money was sent to Aviva to the date the money was received back in the source accounts. And that it should pay him £500 to compensate him for the distress and inconvenience caused by its error.

### *Responses to the Investigator’s opinion*

Mr J didn’t accept the Investigators findings. In summary he said that the level of compensation offered doesn’t reflect the amount he’s lost. And he was adamant that if he’d been advised correctly he would’ve stayed in the UK for another six months to secure the annuity. Mr J has also told this Service more recently that he has now separated from his wife and is struggling financially as he’s had to purchase another property for her to live in.

PensionLite didn’t accept the Investigator’s findings. It provided a copy of the HMRC Residency Test for Mr J and based on the result of that test, it is evident he was a UK resident for tax purposes (the eligibility required by Aviva) for the whole of the 2024/25 tax year. It also said that it had seen no evidence Aviva rejected Mr J’s annuity application as it couldn’t verify he was a resident of the UK (UK Tax Payer) for tax purposes. It understands the annuity application was rejected solely because Aviva could not complete the verification checks for one of the bank accounts from which funds were being transferred to Aviva to pay for the annuity.

PensionLite also said the annuity application form was appropriately completed and submitted to Aviva on 10 July 2024. Aviva replied on 15 July 2024, stating that once it had all outstanding information and the funds to purchase the annuity had cleared in its account, it would set up the annuity. Aviva wouldn’t have sent this email had Mr J been ineligible for the annuity. With regards the target market statement, PensionLite said this document is not intended as the product contract, it does not contain definitive terms, and it is not legally binding such as the products terms and conditions and key features would be. The document is clear in stating the product can be recommended to people outside the target market statement.

The complaint has been passed to me to reach 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.

When considering what’s fair and reasonable in the circumstances, I need to take

account of relevant law and regulations, regulator's rules, guidance and standards, codes of practice and, where appropriate, what I consider to have been good industry practice at the relevant time.

Having considered all the information on file, including Mr J's calls with our Investigators, I'm upholding this complaint. I'll explain why.

I'd like to start by saying I was sorry to hear that Mr J and his wife have separated. I'm sure the issues with the annuity and dealing with this complaint have added to what must already be a difficult time for him.

Turning to the complaint, it doesn't seem to be in dispute that Mr J made PensionLite aware that he intended to leave the UK on 12 July 2024, as soon as the sale of his house completed. So given the incredibly tight timescales involved here, I think both Mr J and PensionLite ought to have recognised that there was very little margin for error.

As it was, Mr J was initially supposed to be arranging a bank transfer for the funds to be sent to Aviva but because the completion of his house sale didn't go through before he left the UK on 12 July 2024, he couldn't arrange this. And he was unable to send a cheque as his cheque book had been packed by the removal firm.

I know PensionLite believes that, having completed HMRC's test, Mr J was a UK resident for that particular tax year. That may well have been the case but given that Mr J was leaving the UK and would no longer have a residence here, PensionLite ought to have checked with Aviva that it would still accept his application, given that there was the possibility Mr J would be leaving the UK before Aviva received the funds for the annuity purchase.

Mr J thinks PensionLite's refusal to comply with his bank's request to be given access to his everyday saver account without offering an alternative caused delays. But I don't agree this was the cause of the annuity not proceeding. This access was only so a bank statement could be provided to show that funds from the house sale had arrived in Mr J's account. The fact remains that the funds didn't arrive in Mr J's account before he left the UK and was therefore unable complete the bank transfer before leaving. So I don't think PensionLite's refusal made a difference here.

After Mr J had been unable to arrange the bank transfer, PensionLite ought to have been alive to the fact that Aviva may require additional documentation demonstrating Mr J's UK address and that having sold his home he may struggle to demonstrate this and to provide a bank statement showing a current UK address. In fact Aviva's email to PensionLite dated 28 June 2024 stated that *"If funds are coming from a different bank account to the one listed on the application form, a bank statement may be required"*. Despite this, I can't see that PensionLite warned Mr J of this before he left the UK and before he was making payments to Aviva.

While I can see that after Mr J left the UK, PensionLite did take steps to liaise with Aviva about how he could make payments to it, I don't think it was enough. On the 15 July Aviva emailed PensionLite with some annuity illustrations. This email contained bold text that made it clear that the annuity was for UK residents only. By this time, the information on the annuity application form was no longer current. Mr J had moved from the address that had previously been provided on the application. And he no longer had an address in the UK. So PensionLite ought to have explained the position to Aviva fully before arranging for Mr J to start transferring funds across.

I think on balance, had PensionLite checked the position with Aviva, it's more likely that not that Aviva would have said that it was unlikely it would allow the annuity to proceed. Instead,

it arranged for Mr J to make numerous unnecessary payments to Aviva, which were ultimately returned. This caused Mr J inconvenience because he had to call the bank each day to arrange the payments. And of course it meant that his funds were not available for use during this period. I'm satisfied that had PensionLite fully explained the situation to Aviva at the point it realised Mr J was unable to arrange the bank transfer before leaving the UK, Aviva would have said at this point that it could no longer provide the annuity. And Mr J would have been saved this additional effort and inconvenience. I've set out below in the "*Putting things right section*" what I think PensionLite needs to do to put things right in this regard.

*Would Mr J have acted differently if PensionLite has warned him that he may encounter problems with the annuity application?*

I think PensionLite ought to have warned Mr J during its first meetings with him that if he was unable to make the payment for the annuity before he left the UK, he may encounter problems with the application. I can't see that it did this but even if it had, I'm not satisfied that Mr J would have done anything differently.

I say this having given careful consideration to Mr J's submissions, both in writing and what he told our Investigators over the phone. In these submission he's said that if he'd been made aware there may be problems he would have remained in the UK. He's explained how important getting the annuity was to him and I don't underestimate this. He's said he would have done anything to get the annuity. He'd been waiting until he was 70 to take the annuity and that had always been his plan.

Mr J had also done his own research on this matter and was aware that annuity rates were at the highest they had been for years. And he says would have found it easy to rent a property through an agent that he had an existing relationship with. So he would have stayed in the UK after selling his house for 6 to 12 months in order to arrange the annuity, had PensionLite told him it wouldn't be possible to arrange it before he left on 12 July 2024.

I do appreciate Mr J feels very strongly about this point. And I don't underestimate how important the annuity was to him but in reaching a finding on this particular point, I've taken account of what actually happened and the action Mr J has taken since.

Mr J told our Investigator that having done his own research, he'd been in contact with Canada Life. He also explained that Canada Life had told him that he was eligible for its annuity if he purchased it before leaving the UK. Despite knowing this, Mr J made arrangements to emigrate on the day his sale house was due to complete. So I think he ought to have realised that if things didn't go smoothly or there were any delays, even very minor, there was a chance he wouldn't be able to actually transfer the funds needed for the annuity before leaving the UK, even if he'd applied for the Canada Life annuity that he'd wanted.

Mr J had already fixed the date he was emigrating before contacting PensionLite in June 2024. But PensionLite doesn't appear to have told Mr J that he may experience problems purchasing the annuity if he had already left the UK – which I think it ought to have done. Although I think Mr J himself ought to have realised that the completion of his house sale might not go through in time. So there was a chance he would be leaving the country before the funds became available. And, given what he has said he was told by Canada Life, I think he ought to have known that that this may mean he could encounter problems with the annuity purchase. So while I think PensionLite ought to have warned Mr J, I'm satisfied that Mr J himself ought to have thought about this and had a contingency plan in place in the event that he was unable to make the payment for the annuity on 12 July 2024.

I'm also conscious that despite having other properties in the UK and access to an agent who could arrange a rental property, even on a short term basis, Mr J hasn't taken the step to come back to the UK to arrange the annuity. I do appreciate this would have caused him considerable inconvenience in the short term. But so far Mr J hasn't taken this action and he's not said that he has any intention of doing this. So while I appreciate Mr J will be disappointed, I agree with the Investigator's findings in this regard. On balance, having considered all the submissions carefully, I'm not satisfied that Mr J would have altered his plans to emigrate on 12 July 2024, if PensionLite had made him aware he may encounter problems purchasing the annuity if he was unable to make the bank transfer to Aviva before he left the UK.

*Should Mr J have been advised to take the Canada Life annuity?*

I know Mr J thinks PensionLite ought to have advised him to take the Canada Life annuity instead. But I don't think this would have made a difference. Mr J had already left the UK before he was in a position to purchase the annuity. And Canada Life had already told him that to be eligible he needed to be in the UK when he purchased its annuity. This is also set out in Canada Life's eligibility criteria. So I don't think Mr J would have been able to go ahead with the Canada Life annuity in any event as he'd left the UK before he would have been in a position to purchase the annuity.

### *Conclusion*

Overall, I think PensionLite failed to warn Mr J that he may experience problems with his annuity application if he was unable to transfer funds before leaving the UK. However, while I appreciate Mr J's strength of feeling on this matter, for the reasons explained, I'm not satisfied that he would have remained in the UK after the sale of his house completed in any event.

However, I do think if PensionLite had made Aviva fully aware of the situation once Mr J had been unable to make the payment, I think Aviva would have confirmed at that point that it would be unable to offer Mr J the annuity. Mr J has suffered a loss of expectation as a result of PensionLite's error. He believed he was still able to purchase the annuity and he went to the effort of transferring the funds piecemeal over to Aviva. This has undoubtedly been very stressful for him. And by unnecessarily transferring £850,000 to Aviva for an annuity he ultimately would be unable to purchase, he was deprived of the use of these funds for a period of time.

I am sorry to disappoint Mr J as I appreciate that even though I've upheld the complaint, it's not been upheld on the basis that he was hoping for. However, I'd like to assure him that I've reached this decision having carefully taken account of all of his submissions.

### **Putting things right**

In order to put things right for Mr J, I'm asking Quilter to:

- Calculate and pay 8% simple interest on each £50,000 payment from the date the money was sent to Aviva to the date the money was received back in the source accounts. Quilter may need to gather bank statements from Mr J in order to establish the correct dates for the calculations.
- Pay Mr J £500 to compensate him for the distress and inconvenience caused by the error.

### **My final decision**

For the reasons explained above, I uphold this complaint and direct Quilter Financial Services Limited to pay redress as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr J to accept or reject my decision before 10 February 2026.

Lorna Goulding

**Ombudsman**