

## **The complaint**

Mr B complains that Aviva Life & Pensions UK Limited has failed to treat him fairly in the way it has calculated the final bonus that would be added to the pension savings he holds in one of its “with-profits” investment funds.

## **What happened**

Mr B has held pension savings with Aviva since March 1985. His pension savings are invested in one of Aviva’s “with-profits” funds and will benefit from a guaranteed annuity rate when Mr B retires.

After receiving his annual statement for 2024 Mr B asked Aviva for more information about how the terminal bonus on his pension investments was calculated. He noted that since 2021 the terminal bonus had fallen from 58% to 30%.

At first Aviva sent Mr B some generic information about the contributions he had made to his pension savings. But, after a number of letters and phone calls from Mr B, it later sent some more specific information about how it set the bonus rates on his investment. It explained that the final bonus was a tool it used to ensure all policyholders received a fair share of the underlying investments. But it accepted that it hadn’t answered Mr B’s initial enquiry with the care and attention that it would have wanted. So, it paid Mr B £50 for the inconvenience he’d been caused. Unhappy with that response Mr B asked us to look at his complaint.

Mr B’s complaint has been assessed by one of our investigators. She explained her understanding of how investments in with-profits funds were managed. And she said from the information Aviva had provided it appeared that it had treated Mr B fairly. So, the investigator didn’t think the complaint should be upheld.

Mr B didn’t agree with that assessment. 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.

## **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 B 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.

I appreciate Mr B is likely to be disappointed by my decision, but the level and nature of bonuses declared by Aviva on its with-profits fund is the result of a commercial decision taken by it acting on the advice of its Actuaries which impacts all policyholders invested in that fund. As a result, it is not within the remit of this service to either sense check Aviva's decisions or scrutinise their calculations.

But, I think it's worth explaining about with-profits funds and how they are regulated. With-profits funds have historically attracted criticism for their complexity and perceived lack of transparency – it can be very difficult for policyholders to understand often complex and lengthy documentation and to be satisfied that they are receiving their proper entitlement under the terms and conditions of the particular product. But those difficulties do not necessarily mean that Aviva has done something wrong or is not acting in accordance with its regulatory obligations.

The industry regulator, the Financial Conduct Authority ("FCA"), recognises that with-profits fund providers have a considerable amount of discretion about how they operate those funds. So, the regulator has made providers accountable for the way in which these funds are managed.

The regulator's Principle 6 requires that regulated firms "...must pay due regard to the interests of its customers and treat them fairly". Furthermore, the Conduct of Business Sourcebook ("COBS"), and specifically COBS 20, contains specific rules and guidance for businesses on the operation of their with-profits funds.

COBS 20.2.1 states:

- (1) With-profits business, by virtue of its nature and the extent of discretion applied by firms in its operation, involves numerous potential conflicts of interest that might give rise to the unfair treatment of policyholders.

And COBS 20.2.3 states:

A firm must have good reason to believe that its pay-outs on individual with-profits policies are fair.

Aviva is accountable to the regulator for the way in which it operates its with-profits fund and the regulator monitors the management of with-profits funds. Businesses are required to appoint a with-profits Actuary and the regulator provides rules and guidance on their duties. An independent with-profits committee is also required – its remit is to protect the interests of the with-profits policyholders and to ensure that they are treated fairly. I am not aware of the regulator having any concerns about the operation of Aviva's with-profits fund at issue here. It's important to remember that bonus rates take into account various factors. These include not just current or recent investment performance (which Mr B has referred to in his complaint) but also how Aviva expect the fund to perform in the future, as well as the fund's liabilities in respect of the guaranteed benefits applicable to all plans. And I think it is also important to consider that Aviva can't distribute all of the returns it makes. That's because by their very nature, with-profits funds have to hold some monies back to smooth out the returns for policyholders when the markets may be depressed in the future.

In respect of the fund in which Mr B's pension savings are invested, bonuses are added by two methods. Each year a regular bonus is added that results in an increase to the unit

prices. The fund guarantees that increase will be at least 4%, although in many years it has been higher.

And then a terminal, or final, bonus is added when the pension benefits are claimed or transferred. That final bonus is important since it ensures that, at the point monies are withdrawn from the fund, their value fairly represents the underlying share of the fund assets attributable to the policyholder. In times where investment returns might not have been as good, the addition of the guaranteed minimum 4% regular bonus might mean the increase in the unit value exceeds the increase in the value of the underlying assets. So whilst I appreciate how disappointing the reduction in the expected value of the final bonus has been for Mr B I don't think it implies that Aviva has treated him unfairly.

This service doesn't have the same level of information that's available to the Actuaries who make bonus decisions and manage the with-profits fund. In addition, the customer service staff at Aviva won't have this level of information either – so they won't know what bonus decisions might be around the corner. Such information is also likely to be market-sensitive when you consider Aviva is listed on the stock market and has shareholders. As such, it's inappropriate for this service to direct Aviva to share that information with either ourselves or Mr B.

From 2004 the regulator has required all insurers to publish a Principles and Practices of Financial Management (PPFM) document. I've checked and this is available on Aviva's website. It explains the steps Aviva is taking in managing the returns and level of guarantees within Mr B's fund. In addition, details of the asset allocation of the fund is covered along with a history of the returns and bonuses Aviva has applied.

Having carefully considered Aviva's correspondence with Mr B, I'm satisfied Aviva has broadly explained the factors that have led to the situation he has complained about. But I am mindful of the opaque nature of these funds and the explanations that Aviva has given - or we can't give – doesn't always satisfy consumers.

But I accept that it took some time before Aviva answered the basic questions that Mr B initially posed about the operation of the fund. Aviva itself has said that it didn't show that enquiry the care and attention that it would have wanted. So I think it right that Aviva paid some compensation to Mr B for the inconvenience he was caused. I think the amount of compensation Aviva has paid Mr B (£50) is fair and reasonable and in line with what I would normally award in circumstances such as these.

I appreciate that this decision will be disappointing for Mr B. I am satisfied that Aviva has provided him with an adequate explanation of how it calculates the bonuses on his pension investments. But I can't direct Aviva to disclose its calculations to Mr B as this could involve revealing commercially sensitive information and I don't consider that fair or reasonable. If Mr B has concerns about the management of Aviva's with-profits fund he can approach the regulator directly.

### **My final decision**

For the reasons given above, 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 B to accept or reject my decision before 16 October 2025.

Paul Reilly  
**Ombudsman**