DRN-5808230

The complaint

Mr B complains that he's received inadequate and delayed responses from Aviva Life & Pensions UK Ltd (Aviva) to questions about his pension policies.

What happened

I issued a provisional decision on 30 July 2025. In summary, I upheld the complaint in part. I said Aviva should pay Mr B £350 for the distress and inconvenience he'd suffered as a result of Aviva's delay in dealing with his enquiries. I've recapped here what I said about what had led up to the complaint and my provisional findings.

'*Mr B has two pension policies with Aviva. Both are Retirement Annuity Contracts (RAC) or section 226 plans which were available up to 1988 before the introduction of personal pensions for those who were self employed or not a member of an employer's pension scheme. RACs were usually used to buy an annuity. Tax free cash could be taken first. One of Mr B's policies was administered by Aviva's Norwich office (the Norwich policy) although I understand the policy is now with ReAssure. The other policy is administered by Aviva's Salisbury office (the Salisbury policy). Both policies are invested in Aviva's with-profits funds.*

The Norwich policy was originally taken out with Provident Mutual which, following mergers of several companies, later became part of Aviva. It's a conventional with-profits policy, rather than a unitised with-profits policy. A conventional with-profits policy pays a guaranteed amount on the selected retirement date, provided all premiums have been paid when due. Regular bonuses may be added from time to time and a final bonus may also be paid, usually according to when the policy was taken out.

The Norwich policy is what Mr B terms hybrid – earlier premiums paid attracted a GAR (guaranteed annuity rate) but premiums paid later didn't. Mr B's last single contribution of £15,000 to the Norwich policy was made in 2000. Mr B says that at the time Aviva didn't say the contribution would be treated differently to the other contributions (which did attract a GAR). However, according to Aviva, single premiums paid on or after 1 January 1998 wouldn't attract a GAR.

In January 2006 Aviva wrote to Mr B's financial adviser saying that the £15,000 contribution, unlike earlier contributions, wouldn't have the benefit of a GAR. Mr B was reminded of Aviva's 2006 letter in November 2022 which prompted his letter to Aviva of 5 December 2022. Mr B had assumed the £15,000 contribution would be held in a different sub fund (to the contributions which did attract a GAR) and it was only in June 2023 he was told that wasn't the case. As I understand it, the Norwich policy is invested in the Provident Mutual Sub-Fund. Aviva has told us that, as a 7 July 2025, the fund value was £388,271.31 and split £336,626.38 (GAR) and £51,644.93 (non GAR).

The Salisbury policy was taken out in August 1984 with UK Provident which, again following various mergers, was acquired by Aviva. It's also a conventional with-profits policy. The proposal form refers a single (gross) premium of £10,000. There's an illustration which shows a basic guaranteed cash fund and annual pension of £86,648 and £12,566.60

respectively. The projected cash fund (based on the then current bonus rates (ordinary 5.75% pa and terminal 60% of ordinary) continuing) was £1,056,829, made up of the basic guaranteed cash fund of £86,648 plus projected ordinary bonuses and terminal bonus of £606,363.12 and £363,817.88 respectively. But, as Mr B will be aware, actual bonuses paid haven't matched those on which the illustration was based.

The illustration had a summary of the policy terms and conditions. It said ordinary and terminal bonuses aren't guaranteed. The annuity rates used to calculate the projected pension figure were illustrative and the actual rates might be higher or lower at retirement. So there's no GAR element. There's also a notice of acceptance and a policy schedule. The latter sets out a basic cash accumulation of £86,929, so that's the guaranteed minimum the policy will be worth. My understanding is that the Salisbury policy is invested in Aviva Life & Pensions UK Limited FP With-Profits Sub Fund.

Mr B's problems with Aviva date back to autumn 2021. He'd turn 70 the following March and he was thinking about accessing his benefits from the policies or transferring away from Aviva. He wrote to both Aviva's Norwich and Salisbury offices in October 2021. His communications with Aviva since have been extensive. I'm not going to refer to all that's been said. But, in summary, Mr B says Aviva failed to provide information, didn't respond to all his enquiries and wasn't willing to make all data available. He says some issues were clarified but many of the (often templated) replies had led to more queries or ignored points raised. Mr B wants Aviva to supply complete, comprehensive and transparent information and explanations. The products are complex but he's entitled to raise relevant and detailed questions. Aviva must have technical experts who can answer the queries raised. Treating his correspondence as a complaint hasn't been helpful when it's substantive information or technical analysis that's needed.

Mr B said there were four issues which he'd like us to review. He also said that, more generally, Aviva had set up (or allowed to arise) obstacles making it difficult for an informed policyholder to obtain, promptly and efficiently, answers to specific questions.

One of our investigators considered the complaint. She explained she hadn't been able to get all the information she needed from Aviva. So she'd reviewed the complaint based on such information as she had. In summary, her findings about the four issues Mr B had raised were as follows:

- *About the Norwich policy, and if the contribution Mr B had paid in 2000 had been used to subsidise his and/or other policyholders' GARs, she referred to what Aviva had said:*

  "The premiums paid under the policy have never been used to subsidise your, or any other policyholders GARs (Guaranteed Annuity Rates). The same can be said in the context of bonus rates. Aviva does not use the declaration of different bonus rates on different elements of policies to subsidise the provision of GARs either.

  The premiums paid under the policy have been fully used to secure the sum assured, which together with any reversionary or annual bonus and any final bonus make up the overall policy value which is used to purchase the annuity provided by the policy. There is a cost to the provision of an annuity using guaranteed rates and Aviva holds reserves to cover this. The reserve uses shareholder monies/company profits to fund any difference in costs between GARs and current immediate annuity rates…"

  The investigator said she'd expect a response from Aviva in broad terms which had been given.

- *As to whether the inherited estate for the Salisbury policy was being distributed she said what Aviva had said about that was different to what it had said about the inherited estate for the Norwich policy – here Aviva had confirmed it was being distributed and policy valuations from about the middle of 2019 onwards had included an uplift to final bonus rates as a result. She recommended that Aviva provide Mr B with the same information for his Salisbury policy and pay him £100 for the inconvenience caused.*

- *About the bonus decision for 40 year old policies the investigator referred to the Principles and Practices of Financial Management (PPFM) that Aviva was required to publish by the regulator, the Financial Conduct Authority (FCA), who supervised with-profits funds. She referred to a letter from Aviva dated 1 May 2024 which provided information about the amount of final bonuses but didn't explain why Aviva didn't declare a final bonus. The investigator thought Mr B was entitled to an explanation in broad terms and recommended that Aviva provide one to him.*

- *As to Mr B's general concerns about how Aviva had dealt with the matter, the investigator acknowledged the opaque nature of and discretionary approach to with-profits funds. She said it wasn't this service's role to interfere with how a business operated, including staff training or deployment. She didn't agree that treating Mr B's correspondence as a complaint was unreasonable. She said there'd been significant delays on Aviva's part when answering Mr B's correspondence which had caused inconvenience and she recommended a payment of £250. She didn't think Mr B had been prevented from taking his pension benefits – had he done that and had there been any error on Aviva's part that could've been remedied.*

Aviva accepted the investigator's view but Mr B didn't. He made a number of points which the investigator considered but she wasn't persuaded to change her view.

As agreement couldn't be reached the complaint was referred to me to decide.

As Mr B is aware, we asked Aviva for some further information. Aviva supplied some documentation relating to the setting up of the Salisbury policy and for the Norwich policy.

What I've provisionally 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'm sorry that it's taken longer than we'd have liked to get to this stage. As I've said we had to ask Aviva for further information and obtaining that has been somewhat prolonged so I'm grateful to Mr B for his patience.

Although I've read and considered everything, I'm not going to refer to all the exchanges. My role isn't to answer (or get Aviva to answer) all the points Mr B has raised if I don't think they are central to the complaint. In many respects my views don't differ from those of the investigator although I've expanded on some of the points she made. Essentially I think Mr B wants to satisfy himself that he's been fairly treated – which is understandable. However, as I've explained below, there are limitations as to what I can consider or require Aviva to do and so Mr B may find some of what I've said disappointing.

Both of Mr B's policies are invested in with-profits although, from what I've seen, in different with-profits sub-funds, deriving from the company with whom the policy was originally taken out. Mr B's with-profits policies are conventional as opposed to unitised. Conventional with-

profits policies offer a guaranteed minimum fund value at the selected retirement date. Annual (or ordinary) bonuses and potentially a final bonus can be added which can increase the fund value that's payable on maturity. Sometimes, as is the case with the Norwich policy – at least in part – a GAR will also be offered too.

With-profits funds were very popular investments in the 1980s and 1990s. At that time bonuses were applied regularly and policyholders were generally happy with their investments. But, from the early 2000s, investment conditions changed and bonus rates declined. At the same time life expectancy increased faster than had been anticipated when guarantees had been set. Many with-profits investors have experienced zero bonus rates for many years. The situation here with Aviva not paying bonuses is not unusual across the marketplace. When bonus rates fell, with-profits funds came under scrutiny.

How a with-profits fund operates isn't straightforward. With-profits funds have attracted criticism for their lack of transparency and which means it can be difficult for policyholders to satisfy themselves they are receiving what they are entitled to. And, particularly in a climate of low bonuses, investors may feel they've not been treated fairly in terms of how much of the fund's returns are being passed on to them and that their position may not compare as favourably as other policyholders invested in the same fund.

While investors such as Mr B are protected in terms of being entitled to a guaranteed minimum fund value and/or a GAR, what benefits are available may fall far short of the illustrations given to them when the policy was set out as to what their fund could ultimately be worth. The illustration given to Mr B in connection with the setting up of the Salisbury policy and which I've referred to above is a case in point. I'd add that where a policyholder raises queries which aren't responded to promptly and/or conflicting or incomplete information is given, that will likely heighten suspicions of unfair treatment or that the provider has something to hide.

The industry regulator, the Financial Conduct Authority (FCA), recognises the issues with with-profits funds and Aviva, in common with other with-profits fund providers, is accountable to the FCA for the way in which its with-profits funds are operated. The FCA monitors this. Firms are required to appoint a With-Profits Actuary (WPA) and the FCA provides rules and guidance on their duties. Aviva has an independent With-Profits Committee (WPC) whose remit is to protect with-profits policyholders' interests and ensure they are treated fairly. Since 2004 the regulator has required all with-profits providers to publish a PPFM document. A shorter, more consumer friendly, version is usually also available. The regulator will be aware of the approach set out in the PPFM anyway, through its role in supervising the management of with-profits funds.

The management of a with-profits fund will include decisions about policy payouts, including what returns and reserves are utilised and what, if any, bonuses are paid and will follow the provider's actuaries' calculations and assumptions taking into account prevailing market conditions and having regard to the competing interests of all policyholders, including the need to balance those of guaranteed and non guaranteed benefits. Detailed information, such as calculations, will be commercially sensitive which we wouldn't expect a business to have to produce, either to policyholders or this service.

And, where a commercial decision has been made by a business which might affect policyholders more widely, I can't require the business to take steps in relation to other policyholders. It might be possible to refer those sorts of wider issues to the FCA. That's a separate process from ours. We generally wouldn't ask the regulator for its comments on how a with-profits fund is being run because we don't have all the information that the regulator has as a result of its role in supervising the management of with-profits funds and, in any event, the regulator, through that work, is likely to be aware of any issues. It's against

that background that I've considered Mr B's concerns.

About the Norwich policy, Mr B's last single contribution of £15,000 to that policy was made in 2000. I think the time to challenge what Aviva had said about the contribution not benefitting from the GAR was in 2006 when Aviva wrote to Mr B's financial adviser saying that the contribution, unlike earlier contributions, wouldn't have the benefit of a GAR. If Mr B (or his adviser) was told that the GAR had been removed and going forwards further contributions wouldn't attract a GAR, it was open to Mr B to decide what he wanted to do with any further contributions. Indeed I understand that he didn't make any further contributions to the Norwich policy so it would seem that, whether his decision not to further fund the policy was because the GAR wouldn't apply or for some other reason, his contributions were directed elsewhere anyway.

However I understand that Mr B's concern is more whether that contribution has subsidised the cost of the GAR liabilities, in relation to his policy or more generally. Aviva has attempted to explain why that isn't the case. Mr B is dissatisfied with what Aviva has said. He says it's more of an assurance, not an explanation as such, and which, without anything further in support, he isn't happy to accept. He points out that Aviva has referred to adjusting regular bonus rates for some policies to provide a better balance between guaranteed and non guaranteed benefits, thereby acknowledging that fairness requires differential treatment of GAR and non GAR products. And Aviva says it does take account of policy guarantees in setting bonus rates – which Mr B says waters down the benefit of the guarantee and means it's impossible to apply that fairly to a hybrid policy, where only some of the policyholder's funds benefit from a guarantee. And, although Aviva has claimed that GARs are funded out of reserves, Aviva hasn't explained how those reserves are built up.

I can understand Mr B's concerns. But I'm satisfied that Aviva is aware of its responsibilities to balance different policyholders' interests and of the need to ensure that all policyholders are treated fairly. Aviva is bound by the regulator's Principles for Businesses. Principle 6 requires that firms '…must pay due regard to the interests of its customers and treat them fairly'.

And the Conduct of Business Sourcebook (COBS) 20 gives specific and detailed rules and guidance for firms on the operation of their with-profits funds, including the following – see COBS 20.2.1G (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. Potential conflicts of interest may arise between shareholders and with-profits policyholders, between with-profits policyholders and non-profit policyholders within the same fund, between with-profits policyholders and the members of mutually-owned firms, between with-profits policyholders and management, and between different classes of with-profits policyholders, for example those with and without guarantees.'

Aviva's decisions will have been taken against that background and where dealing with competing interests and possible conflicts are part and parcel of operating a with-profits fund. I haven't seen anything which persuades me that Aviva (or its WPA or WPC) would condone the situation that Mr B suggests – meeting benefits which Aviva is obliged to pay to certain policyholders under guarantees from contributions made and/or benefits due to other policyholders. Nor would the regulator permit that.

Mr B is also unhappy with Aviva's decision to extend the zero final bonus to 40 year old policies. In 2023 the level of the final bonus was zero on policies up to 39 years old, but 1% on 40 year policies. But, as set out in Aviva's letter of 1 May 2024, it was decided that a zero

final bonus would apply to 40 year old policies as well. That change directly affected Mr B's policy and was, he considers, particularly punitive given the absence over the last 21 years of any regular bonuses. Mr B accepts that with-profits bonuses are discretionary, but that discretion has limits and must be exercised fairly, reasonably and transparently, which to date is not the case. Aviva should also balance fairly the respective interests of its policyholders and its shareholders.

However, bonuses aren't guaranteed and variations to annual and terminal bonus levels are within Aviva's discretion in operating the fund. Even though Aviva has a considerable amount of discretion in operating its with-profits funds, I think Aviva is well aware of the need to ensure, in exercising that discretion, that different classes of policyholders are treated fairly. The PPFM sets out how bonus decisions are taken – determined by the Board, after taking advice of the WPA and consideration by the WPC, put in place to protect with-profits investors. If the WPC is unhappy with what it sees then it may raise issues with the regulator. And bonus rates, along with other issues such as how surrender values are calculated, are kept under regular review to maintain fairness between policyholders, different generations and bonus series, those exiting the fund and those remaining. I can't see that Aviva would seek to manipulate bonus rates for certain policyholders to achieve a particular result and which might unfairly prejudice some policyholders.

I appreciate that Mr B wanted to explore some things further with Aviva. And that he's spent considerable time and effort in trying to get fully to the bottom of things. He also feels it would've been preferable if he'd been able to speak or communicate direct with Aviva's actuaries. On that point, I don't think it's reasonable to expect Aviva to make that facility available to policyholders. What Aviva has done, and which I think is reasonable, is to refer Mr B's queries to its actuaries and incorporate what the actuaries say in responses to Mr B from a customer service representative. Aviva's letter of 23 November 2023 is an example. I think Mr B did find that letter helpful even if he didn't think it dealt with all the queries he'd raised in his letter of 2 October 2023 and earlier, hence he followed up with his letter dated 13 December 2023.

He's also unhappy that Aviva issued a 'deadlock' letter in December 2023 without sight of some correspondence and wasn't prepared to reopen matters when the missing communications were provided. But sometimes, even though a consumer may remain dissatisfied and can point to contradictions or gaps in the information that's been provided, it won't be unreasonable to try to draw a line under the matter, by suggesting the matter be referred to this service. Particularly if the business concerned considers it's unlikely that the queries will be resolved to the policyholder's satisfaction by further correspondence.

In the circumstances, I think things have reached the point where it's a matter for Mr B if he wants to raise his concerns with the FCA in its supervisory capacity, making it clear that he's referred the matter to us but we were unable to help. But I'd point out that Mr B won't necessarily receive the detailed feedback he might seek on what the regulator's view are. Or what, if anything, the FCA may do in response to the issues he's raising and which might depend on whether similar concerns have been brought to its attention by its own supervision of the fund concerned or by other channels, including other policyholders.

Mr B was concerned that, unlike with the Norwich policy, Aviva hadn't answered his queries about the distribution of the inherited estate. Information about Aviva's Sub-Funds is published on Aviva's website. As I've said, my understanding is that the Salisbury policy is invested in the Aviva Life & Pensions UK Limited FP With-Profits Sub-Fund. From what appears on Aviva's website, for pre-demutualisation policies – those taken out before 9 July 2001, there have been asset share uplifts – the asset share is the value of premiums plus investment returns less expenses.

There have been delays on Aviva's part in responding to Mr B's queries. The investigator recommended a total payment for distress and inconvenience of £350 – made up of £100 for Aviva's failure to provide information about the Salisbury policy and what had happened to the inherited estate and £250 for Aviva's delays generally in dealing with Mr B's queries. I think that's fair and reasonable in the circumstances of this case and consistent with the awards we'd make where a business' actions (or inactions) have caused considerable distress, upset and worry and/or significant inconvenience, disruption and effort to sort out. I don't agree that Mr B has been prevented from taking his benefits. He could've done that and continued to pursue his enquiries and, if any discrepancies were identified, those could've been corrected.

Overall, as I've recognised above, Mr B may find my decision disappointing. But the opaque nature of with-profits funds and the considerable discretion that providers have means that policyholders won't always be satisfied with the answers a provider – and this service – is able to give. As I've said, it's a matter for Mr B if he wants to approach the regulator directly.'

Aviva didn't respond to my provisional decision. Mr B didn't accept my provisional decision and made detailed comments.

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've read and carefully considered all Mr B has said in response to my provisional decision. I do understand why he's disappointed with my conclusions and that the only remedy I proposed was what he regards as a 'token' payment of £350 in recognition of Aviva's delays. However, I haven't been persuaded to change the views I set out in my provisional decision. I'm not going to comment on each and every point Mr B has raised, just what I see as his main objections to my provisional decision.

First, to clear up a couple of discrepancies, Mr B has pointed out that, contrary to what I said in my provisional decision, a GAR also attaches to his Salisbury policy. He also says he was unaware of the apparent transfer of the Norwich policy to Reassure and he didn't receive any information. However, I don't think there's any suggestion that anything turns on these matters.

Mr B has referred to the regulator's Principles for Businesses (PRIN). I noted in my provisional decision that Aviva is bound by PRIN. In considering what's fair and reasonable in all the circumstances of the case I take into account relevant law and regulations; regulator's rules guidance and standards (which includes PRIN); codes of practice; and (where appropriate) what I consider to have been good industry practice at the relevant time.

Mr B's central concern remains that Aviva hasn't supplied information to which he considers he's entitled. Contrary to what he suggests, I don't consider his enquiries were unreasonable or that Aviva is justified in ignoring his questions. I'm sorry if my provisional decision suggested otherwise. But, in my view, there's a balance to be struck. That's reflected in what I said about not requiring Aviva to answer all the points Mr B has raised if they're not central to the complaint (although, as Mr B suggests, deciding what is or isn't key can in itself be a matter for debate). And there may be a divergence between what information (or perhaps more accurately, the level of detail) a consumer expects and what we might think a business should provide, depending on the nature of the enquiry. And the extent of our role and/or our approach can be relevant too.

As Mr B has pointed out and, as my provisional decision recorded, our investigator wasn't able to get all the information she'd requested from Aviva before she issued her findings. And she said in her view that Aviva should provide some further information to Mr B – in relation to the inherited estate for the Salisbury policy and around the decision not to pay final bonuses on 40 year old policies. But, as Mr B is aware, we did make further enquiries of Aviva before I issued my provisional decision and to which Aviva did respond. Although it would've been preferable had Aviva responded to the investigator's queries in a timely manner, I'm satisfied our process hasn't been vitiated.

I set out in my provisional decision my understanding of the position about the Salisbury policy and the inherited estate – that the policy was invested in the Aviva Life & Pensions UK Limited FP With-Profits Sub-Fund – to which asset share uplifts had been applied. About Aviva's decision not to pay final bonuses on 40 year old policies, I'm not convinced that a direction for further information will take matters much further forward. Mr B may continue to remain dissatisfied with any further information Aviva provides and/or it might lead to further queries. I think his unhappiness about Aviva's decision to remove final bonuses is likely to persist. In my view, that concern should be included as part of a referral to the FCA.

Mr B says I've assumed that because a regulatory framework and specific regulations exist, Aviva must be taken to have observed them. But I haven't seen anything to suggest Aviva wasn't compliant. For example, there's no suggestion that Aviva doesn't have in place the required WPA and WPC or that it hasn't published the necessary PPFM documents. And, in so far as COBS 20 is concerned – which focuses on the fair treatment of with-profits policyholders and the governance of with-profits funds – the FCA will check compliance as part of its supervisory remit and act if it considers a firm has breached the rules. I maintain, given the level of scrutiny, it's unlikely Aviva's WPA/WPC would condone the situation Mr B suggests, whereby Aviva has met its obligations to pay guaranteed benefits to certain policyholders from contributions made by and/or benefits due to other policyholders. But that would be something which falls within the FCA's supervisory remit.

Mr B is concerned about how Aviva handled his complaint in relation to this service's process. He explained his concerns in his letter of 16 March 2025 and said he wanted it treated as a new and additional complaint. However, in my view, those matters form part and parcel of his concerns about the fact that Aviva issued a final response letter in December 2023. In my provisional decision I said Aviva hadn't acted unreasonably in trying to draw a line under the matter, notwithstanding it had then come to light that some correspondence from Mr B had gone astray although Aviva wasn't prepared to reopen the complaint.

I don't disagree that, because Aviva had issued its final response, Mr B had no choice to either let matters drop or refer his complaint to us. He's unhappy that, having done the latter, it then transpired that some of the issues might be what he terms outside this service's scope. But I don't agree that means either Aviva was unaware of limits on our service or that Aviva was inviting Mr B to go down a dead end which wouldn't lead to a resolution of some of his issues.

We wouldn't generally expect a provider or indeed any respondent to a complaint, in giving referral rights to a consumer, to express any view as to whether this service would be able to look into the matters complained about. The exception would be if the respondent considered that the complaint might be outside our jurisdiction because it hadn't been made within the applicable time limits. That isn't the situation here. Whether or not we can consider a complaint is a decision for us to make and we wouldn't expect a respondent to 'second guess' that and which could be viewed as an attempt to deter a consumer from referring a complaint to us. I don't think Mr B's position is any different to that of other consumers who might find, having been given referral rights to this service, that we can't look into the complaint or certain aspects of it.

In any event, the position here is more nuanced. It isn't the case that we're unable to look into a complaint about how a provider operates its with-profits funds. But there's an overlap with the FCA which means that the FCA in its wider supervisory capacity is usually better placed to look into how a provider has managed its with-profits fund(s) and whether a particular class of policyholder has been fairly treated. So, in many cases, we'll suggest a more appropriate route would be for the consumer to refer the matter to the FCA.

Mr B accepts there might be circumstances where trying to draw a line under the matter makes sense but he doesn't think that was the case here. Amongst other things he says the issue of a final response was an excuse for Aviva to avoid having to respond to several of his letters. And legitimised Aviva's failure to engage on issues such as how reserves had been built up. I understand Mr B's frustration, particularly given he'd spent time putting together his letters and arguments. He'd been dealing with more than one department so there might've been some room for confusion as to who ought to be replying to him. But Aviva should've managed that. However, by December 2023, he'd been in correspondence with Aviva for over two years. I don't think it would've appeared to Aviva that things were likely to be resolved by further correspondence. Overall, I don't view Aviva's decision to issue a final response letter as unacceptable. Or that doing so amounts to an exploitation of Aviva's own complaints procedure or our process.

Mr B has referred to what I said in my provisional decision about the opaque nature of with-profits funds and the considerable discretion providers have. To be clear, I wasn't saying that explained or justified what Mr B regards as Aviva's incomplete or unsatisfactory answers. My point was more that it can be very difficult for policyholders to satisfy themselves they are receiving a fair share. I realise that it's asking a lot of an unhappy policyholder to put their faith in the WPA and the WPC, coupled with the FCA's supervisory function. And because of the way the FCA works, Mr B won't get direct answers to the queries he's raised. But those mechanisms were put in place because it was recognised there were issues relating to with-profits funds and to protect policyholders' interests and ensure parity and fair treatment.

I note Mr B's point about information pertaining to individual policyholders' funds on which financial advice might be sought (or required) needing to be available. But I don't think there's anything to suggest that Aviva hasn't been able to provide information about Mr B's policies such as what his fund value is or what options he has in terms of taking his benefits. The issues Mr B has raised are more to do with the legitimacy or otherwise of wider discretionary decisions taken by Aviva relating to the operation of its with-profits funds generally and their impact on his policies.

Mr B doesn't agree that he could've accessed his pension savings without waiting for the issues he'd raised to be resolved. He says he referred to that possibility in a letter to Aviva dated 2 June 2024. But Aviva didn't reply which made him doubtful as to whether it was realistic. He also says he expected he'd have been asked to confirm the calculations involved which, without reliable information, he'd have been unable to do.

However, if Mr B had wanted or needed to access his pension savings, it's not unreasonable to say he could've pressed Aviva further and made it clear he needed those funds. And, even if he'd been asked to confirm Aviva's calculations, he could've done so on a without prejudice basis, that is saying he didn't accept the calculations were correct and so his benefits might be subject to later adjustment. It isn't unusual for us to deal with complaints where benefits have been taken but there's an ongoing dispute about whether what's been paid is the correct amount. I don't see that Aviva would've refused payment (or a transfer if that's what Mr B wanted to do) on that basis. The same is true for any information requested by or supplied to Mr B's professional adviser. I don't think any concerns about tax issues

were overriding. Any later revision to the payments could've been notified to HMRC and tax adjusted appropriately.

If Mr B does want to access his benefits he should contact Aviva direct and, if appropriate, explain that he's going to be referring his concerns to the FCA and so his decision to take his benefits is without prejudice to that. As I don't agree that Mr B was effectively precluded from accessing his pension savings, I can't say that he's suffered financial loss or that payments should be backdated.

Given the particular nature of Mr B's complaint – the operation of Aviva's with-profits funds – the FCA's role is relevant and impacts on our approach. I maintain that the FCA is better placed to consider the issues Mr B has raised – it's possible other policyholders may have already referred similar concerns. I realise that won't necessarily give Mr B the answers he's seeking and the regulator won't share with him what, if anything, it may be doing in response to any referrals. But it should at least give Mr B some confidence that his concerns have been considered by the authority with access to all relevant information and direct oversight, in its supervisory function, of how Aviva is managing its with-profits funds. Although Mr B says he'd like clarification as to what issues should be directed to the FCA, I think it's more for the FCA to decide what it can or can't look into. As I suggested in my provisional decision, if Mr B raises his concerns with the FCA, he should make it clear that he's already made a complaint to us. He can of course provide the FCA with a copy of my decision.

My final decision

I uphold the complaint in part. Aviva Life & Pensions UK Ltd must pay Mr B £350 for the distress and inconvenience suffered as a result of delay in dealing with his enquiries.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 30 October 2025.

Lesley Stead
Ombudsman