

## The complaint

Mr N complains that Aviva Life & Pensions UK Limited (Aviva) unfairly prevented him from claiming the benefits from his Section 32 Pension Buy Out Plan. Aviva told Mr N that this wasn't possible at that time, despite his proposed retirement age being set up as age 50 at the plan's inception. Mr N also complains that Aviva hasn't provided him with copies of the documents he requested and information regarding its ill health policy.

## What happened

In May 1999, Mr N transferred his pension benefits from his then group pension scheme to a Section 32 Buy-out Pension Plan with a business that is now part of Aviva.

Mr N selected a proposed pension age of 50 when he completed his application for the plan. But the paperwork stated that the scheme's normal retirement age was 65.

The discharge forms for the transfer, which were dated 11 May 1999, also stated:

*"Benefits under the [transferring scheme name] have been equalised in respect of service from 17/5/90 except for Guaranteed Minimum Pension. Acceptance of the transfer value by the receiving scheme will imply full acceptance of the Guaranteed Minimum Pension liability and the receiving scheme will have no further claim on the Trustees of the [transferring scheme name]"*.

A handwritten note had been added to this paragraph. This stated: *"Provided the transfer value covers the Guaranteed Minimum Pension liability"*.

The application paperwork also contained the following paragraph, headed *"Additional information"*:

- a. At Pension Age the fund available would firstly have to purchase pensions sufficient to meet the Guaranteed Minimum Pension requirement at State Pension Date plus specified revaluation of the amount to your specified Pension Age. This might involve the purchase of a pension escalating in payment at 3% per annum. The remaining fund could then be used to take a combination of pension and tax-free cash subject to Inland Revenue limits.*

Aviva wrote to Mr N on 5 February 2025, following his request for an early retirement quote. It said it couldn't produce one at that time, because the value of his fund didn't cover the cost of the Guaranteed Minimum Pension (GMP) he was entitled to under the plan at age 65. In the letter, Aviva provided information about the GMP. It also said that it would write to Mr N again before his 75th birthday to give him details of his retirement options.

I understand that Mr N asked Aviva if he could transfer his plan. Aviva then wrote to him on 4 March 2025 to explain that because the transfer value of his plan was lower than the cost of providing his GMP, he couldn't transfer at that time. The letter again provided information about the GMP. It also explained why Mr N couldn't transfer his plan yet. It said that until the value of the plan was greater than the amount required to fund the GMP, no transfer would

be possible.

The 4 March 2025 letter also explained that despite the plan's value being too low to cover the cost of the GMP at that time, it guaranteed to pay in full Mr N's GMP at age 65. Aviva said it would contact Mr N shortly before his 75th birthday to let him know his options.

Mr N wanted further information and clarification about his plan. Aviva responded to this request in a letter dated 20 March 2025. It explained that although Mr N's plan had a proposed pension age of 50, he still needed sufficient funds in his plan to cover the cost of the guaranteed GMP from age 65 before he could take any benefits from it. Aviva said that suffering from ill health wouldn't change this. But noted that there could be alternative options if Mr N was suffering serious ill health. It said this was defined as having a life expectancy measured in months rather than years. And that if this was the case for Mr N, he should contact it to ask it for a serious ill health quotation.

Mr N complained to Aviva about the situation with his plan. He was also unhappy as he felt Aviva hadn't provided him with copies of documents he'd asked it for.

Aviva replied to Mr N on 27 March 2025. It said it'd attached the information he'd asked for.

Mr N didn't think Aviva had sent him what he'd requested. He asked it to reinstate his complaint. He said he'd asked for the original policy, which he said it had yet to provide. And for a copy of the evidence it had that showed he'd said he was happy to receive benefits at age 65 and not age 50.

Aviva issued its final response to the complaint on 26 May 2025. It acknowledged the frustration Mr N must be feeling, given his health issues. It also acknowledged that Mr N had chosen a proposed retirement age of 50, alongside a scheme retirement age of 65, when he'd transferred into the plan. It said that Mr N's proposed retirement date of age 50 was the age he'd proposed to retire, subject to his fund being large enough to cover the cost of the GMP at that time. Aviva said that although Mr N might not have given written permission to defer until age 65, there would have been no other option.

Aviva said Mr N could take the benefits from his plan before age 65 if the cost of the GMP was met by his fund, or if his doctor was willing to sign a declaration confirming Mr N satisfied the serious ill health requirements.

Unhappy, Mr N brought his complaint to this service. He said he wanted to take some of his pension given his health issues. And that he'd originally transferred his pension into his plan with Aviva so that he could take his pension from age 50. He had now passed this age.

Mr N said that Aviva had explained that he couldn't take his pension until he was 65 given the GMP. And that it'd said he'd signed something at the time of the transfer to state that he was happy that he could take the benefits at 65. He said that while he'd asked Aviva for a copy of this document, it'd failed to provide it. He said it'd also failed to provide a copy of the original pension plan documents and its ill health policy.

Mr N felt he couldn't access his pension when he needed it the most. And that Aviva hadn't evidenced why he couldn't take his pension. He also said that Aviva had given him no guidance or forms for his doctor to complete to access his pension on ill health.

Aviva said it hadn't made any errors. And that it'd sent Mr N the plan's terms and conditions, which showed the circumstances in which benefits could be taken. It also said it'd carried out calculations at the time Mr N had asked to take his plan benefits which had showed that the plan's value wasn't sufficient to cover the GMP.

Aviva said that it didn't have its own serious ill health requirements. Therefore the plan's terms and conditions didn't determine whether serious ill health was met. Instead, HMRC legislation guided whether serious ill health should be considered. Aviva said a policyholder's life expectancy had to be less than a year for serious ill health to be a consideration. It also said that if Mr N wanted it to consider whether he met the serious ill health criteria, it would initially require information about the medical condition which he felt might meet the serious ill health criteria, including confirmation that his life expectancy was likely to be less than 12 months.

Aviva also said that as the plan was a 'Pension Buy Out', it held limited information. But it shared the 2009 transfer paperwork from the ceding scheme with this service.

Our investigator didn't think Aviva had done anything wrong. He felt Aviva had explained to Mr N in its February and March 2025 letters that he couldn't take the benefits from his plan or transfer them to another provider at this time because the value of his plan was lower than the amount required to fund the GMP within his plan. And that in doing so, it had acted in line with the terms and conditions of the plan.

Our investigator provided an explanation about how Section 32 Buy-out Plans had to operate, noting that pension providers might not allow early retirement or a transfer if the Section 32 plan includes a GMP and the fund isn't big enough to secure the GMP amount. He said this was the case here. He also included wording from the plan's terms and conditions which he felt confirmed this was the case for Mr N's plan.

Our investigator acknowledged that Mr N had selected a proposed retirement age of 50 on his application form for the plan. But explained that Aviva was required to provide the GMP from age 65 for him. As such, the value of Mr N's plan would have to be sufficient to cover the cost of that GMP before Aviva could allow Mr N to take the benefits from his plan or transfer his plan before he reached age 65.

Our investigator shared a copy of the plan documents Aviva had sent this service with Mr N, in acknowledgement of his request to Aviva for that documentation. He also told Mr N that Aviva had explained what it needed for serious ill health to be considered. It'd said:

*"...the policyholder's life expectancy needs to meet the definition of being measured in months rather than years."*

Our investigator therefore noted that Mr N might be able to claim his benefits before age 65 if his doctor would sign a declaration confirming he satisfied the serious ill health requirements. He also provided Mr N with links to HMRC's Pensions Tax Manual which he said explained the requirements for the serious ill-health retirement option and the ill-health retirement option.

Mr N didn't agree with our investigator. He made the following points:

- While he felt he now had some information about receiving benefits through ill health, he didn't think it was completely clear and considered it unfair. He asked for further clarity about what his life expectancy would have to be to meet the criteria.
- He said he'd asked Aviva for a copy of the plan's rules more than once, but it'd refused to provide them.
- Mr N shared a letter Aviva had sent him dated 25 September 2025. He felt this stated that Aviva didn't plan to contact him until he reached age 75. He said Aviva had attached a "making your retirement choices" leaflet to that letter which stated

amongst the options that he could withdraw all his pension. He felt this was very misleading.

Our investigator said he would need to confirm the definition of serious ill-health with Aviva. But he felt it was no longer than 12 months. He also noted that the reference to age 75 in the recent letter from Aviva was probably because this was the oldest age he could choose his benefit options. But he said that there was no reason Mr N couldn't contact Aviva to ask for his retirement options at an earlier age.

Mr N still felt that Aviva was refusing to divulge its policy in relation to retirement on ill health. He also asked our investigator to clarify at exactly what age he'd be able to take his pension benefits.

Our investigator told Mr N that he wouldn't be able to take his pension benefits until his fund was large enough to cover the GMP. He felt this meant that Aviva should allow Mr N to take his benefits once his fund value reached the amount required.

As agreement couldn't be reached, the complaint has come to me for a review.

### **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.

Having done so, I'm not going to uphold it. I know this will be disappointing for Mr N. I'll explain the reasons for my decision.

I'd first like to say to Mr N that I'm very sorry to hear about his health issues.

I first considered whether Aviva acted fairly when it prevented Mr N from taking his retirement benefits from his plan.

#### *Did Aviva act fairly?*

As our investigator noted, the plan's terms and conditions contain Section 22, Proposed Pension Date. Within this section, point (d) states the following:

*(d) Where the Plan or any Associated Plan provides for the payment of the Guaranteed Minimum Pension in respect of the Planholder, [Aviva] reserves the right not to allow the Planholder to choose a particular Pension Date if the Total Retirement Benefit Value at the Pension Date would not be sufficient to ensure payment of the Guaranteed Minimum Pension.*

As I noted in the background section, the application paperwork also contained a paragraph which explained that the plan's funds would first have to meet the GMP before they could be used to take any other benefits.

Further, the 2009 discharge forms for the transfer included a paragraph to which a handwritten note had been added. This stated:

*"Provided the transfer value covers the Guaranteed Minimum Pension liability".*

I'm therefore satisfied that Mr N ought reasonably to have been aware of this condition when he set up the plan.

Aviva has shown that it calculated whether the value of Mr N's fund covered the cost of the

GMP when he asked it for an early retirement quote. And that this calculation showed that it did not. Therefore I'm satisfied that Aviva acted fairly and in line with the terms and conditions of the plan when it told Mr N he couldn't yet take the benefits from his plan or transfer to another arrangement.

Having carefully considered the contents of Aviva's 5 February 2025, 4 March 2025 and 20 March 2025 letter, as well as its final response letter, I'm also satisfied that Aviva took reasonable steps to clearly explain the situation to Mr N.

I understand why Mr N expected to be able to take his benefits from his plan before he reached 65, especially given he chose to transfer into his Aviva plan so he could take his pension from age 50. But I'm satisfied that Aviva acted fairly when it told him he couldn't yet access his benefits given the cost of his GMP wasn't covered by his fund.

Mr N felt that Aviva hadn't properly evidenced why he couldn't take his pension. So I went on to consider whether the evidence I've been provided with reasonably explains this.

*Is there evidence that Mr N agreed to a potential retirement age of 65?*

Mr N said that Aviva had told him he'd signed something at the time of the transfer to say that he was happy to take the plan's benefits at age 65. While he'd asked Aviva for a copy of this document, it'd failed to provide it.

In its final response letter, Aviva said that Mr N might not have given explicit written permission for this. But there would have been no other option.

The evidence shows that Mr N did select a proposed pension age of 50 on application for his plan. But the paperwork stated that the scheme's normal retirement age was 65. Aviva has explained that this was due to the GMP being payable from age 65.

As I noted earlier, the application paperwork contained a statement that explained the cost of the GMP would have to be covered first. I'm therefore persuaded that when Mr N signed his application for the plan, he ought reasonably to have been aware that he may not be able to take his benefits from his preferred retirement age of 50, as his ability to take his pension benefits depended on the relative value of his fund compared with the cost of his GMP benefits.

I therefore can't reasonably hold Aviva responsible for not providing Mr N with a copy of a specific statement he signed agreeing to take his benefits from age 65.

I went on to consider if Aviva has provided Mr N with the other documents he requested.

*Did Aviva provide Mr N with the documents/information he requested?*

Mr N said Aviva had refused to provide him with a copy of the original pension plan documents, despite him asking for them more than once.

Aviva said it had sent Mr N the plan's terms and conditions. I can also see that our investigator has additionally sent them. I'm therefore satisfied that Mr N has them.

Mr N said Aviva had failed to provide him with its ill health policy, despite his requests. Given the issue at the heart of this complaint, I've taken that to mean Aviva's serious ill health policy.

The evidence shows that Aviva explained to Mr N in its 20 March 2025 letter that "normal" ill

health wouldn't allow him to take his pension benefits, given his fund didn't cover the cost of his GMP. The letter went on to explain that serious ill health was defined as having a life expectancy measured in months rather than years. And that if this was the case for Mr N, he should contact it to ask it for a serious ill health quotation.

In its final response letter, Aviva also said that Mr N could take the benefits from his plan if his doctor was willing to sign a declaration confirming that he satisfied the serious ill health requirements.

Our investigator has subsequently reconfirmed this information and provided Mr N with HMRC links which expand on this definition. I'm therefore satisfied that Aviva took reasonable steps to explain to Mr N what he would have to do if he wanted to take his plan benefits under serious ill health.

I appreciate that Mr N doesn't agree. He doesn't think that Aviva gave him any guidance on this or provided him with forms for his doctor to complete. He therefore feels that it's not completely clear what he would have to do to receive his benefits through serious ill health.

While I acknowledge that Mr N feels this way, I can't reasonably agree that Aviva needs to do more. I say this because I'm satisfied that Aviva doesn't have its own serious ill health requirements. Instead, it looks to HMRC legislation. I'm also pleased to see that Aviva has explained the initial information it would need from Mr N if he felt he might meet the serious ill health criteria.

Overall, I'm satisfied that Aviva has provided Mr N with the documentation and information that he requested. And I don't require it to do any more on this point.

I went on to consider Mr N's other points.

#### *Other points*

Mr N said that Aviva had told him he couldn't take his pension until he was 65, given the GMP. But I can't reasonably agree that it did. For example, the final response letter clearly states that Mr N can take his pension before age 65 if the cost of the GMP is met by his fund.

Mr N shared a letter Aviva had sent him dated 25 September 2025. He felt the content of this letter was inconsistent with his situation.

While I agree that some of the content of this letter isn't relevant to Mr N's situation, I'm satisfied that Aviva made it clear at the outset that he couldn't take his early retirement benefits at this time.

Having carefully considered Mr N's points, I don't uphold the complaint.

#### **My final decision**

For the reasons explained above, I don't uphold the complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr N to accept or reject my decision before 24 November 2025.

Jo Occleshaw  
**Ombudsman**