

The complaint

Mr S complains that Aviva Life & Pensions UK Limited mis-sold him a Sun Life Guaranteed Over 50 Plan, ("the plan"). He says he didn't know he'd opted to purchase it, didn't understand it, and that the costs and benefits weren't explained to him. He says he's paid more into the plan than it will now pay out. He wants Aviva to refund all his premiums, plus interest.

What happened

The plan started in 1995 and Mr S has paid a premium of £10 a month since then for a sum assured of £1,540. Aviva didn't advise Mr S to take out the plan; it was a "direct sale", meaning he responded to some marketing information.

Aviva said it supplied Mr S with information which enabled him to decide whether the plan was suitable for his circumstances. It said it had previously written to him to give him the option of stopping making the monthly premiums to convert the plan to "paid up" or to cancel the plan and receive a cash-in value now.

Our investigator didn't recommend that the complaint should be upheld. She concluded that the plan had provided life cover for Mr S, that he was made aware the premiums paid might exceed the sum assured, and that, more recently, Aviva had given him options if he wanted to stop paying the premiums.

Mr S didn't agree and said he didn't receive Aviva's 2019 letter about his options.

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.

Mr S took out the plan many years ago and full records of what happened at the time aren't available. In cases like this, where the evidence is incomplete, I reach my decision on the balance of probabilities – in other words, what I consider is most likely to have happened in light of the available evidence and the wider circumstances.

Aviva didn't recommend the plan to Mr S, so it didn't have responsibility for ensuring it was suitable for him. But it did have to provide him with enough information for him to decide for himself if the plan met his needs.

Aviva has provided a copy of the marketing that it used in or around 1995 and I think that, in all likelihood, Mr S applied for the plan by post in response to this marketing. Mr S says he doesn't remember opting for the product. But the plan was a stand-alone product and Mr S must have wanted to take it out because he completed and signed the application form, including choosing the amount of cover and premium payments. It's not surprising he doesn't remember that now as it happened so long ago.

The marketing information Mr S would have received explains that the plan is a life assurance plan designed to provide a fixed sum on death. As Mr S chose a monthly premium of £10, I don't think it would have been difficult for him to calculate how long he would have to pay the premiums to exceed the sum assured. But I would expect Aviva to have drawn this to his attention. I can see there was a warning in the marketing, and also in the key features, which says:

"If you live long enough the total premiums paid will eventually be greater than the amount payable on death."

The key features also included some simple examples to illustrate this.

The plan was a life assurance plan designed to provide protection and pay out a sum of money if Mr S died. Unlike a savings account, or other investments, there was no guarantee that the amount the plan paid out would be as much as he'd paid in. And I'm satisfied this was made clear.

Mr S has lived past the point at which his total premiums paid were greater than the death benefit under the plan. But before then the plan would have paid out more than he'd paid in and, early on, significantly more. The potential benefits the plan would have provided in the event of an early claim should be considered against the risk of Mr S living long enough to pay in more than the death benefit.

I'm also satisfied that Aviva has set out two options for Mr S if he wants to stop paying the monthly premiums. It is unfortunate Mr S didn't receive, or has over-looked, Aviva's letter which set this out. I'm satisfied from what Aviva has provided that the letter was sent on 5 December 2019 to Mr S's correct postal address. So I can't hold it responsible if the letter wasn't delivered. I think it's fair that Aviva set out these options again in its final response to Mr S's complaint.

Overall I find the plan worked as it intended to. And Aviva provided enough information, which was reasonably clear, to explain how the plan worked. I'm satisfied Mr S was given enough information about the plan to make an informed decision whether or not to take it out. So I don't think Aviva mis-sold it to him.

My final decision

For the reasons I've explained, my final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 27 November 2023.

Elizabeth Dawes
Ombudsman