

The complaint

Mr T complains Aviva Life & Pensions UK Limited (Aviva) failed to inform him of his pension options before he turned 75 years of age. He no longer has the option to drawdown his pension as he wanted. He says had he been made aware; he would have acted differently.

What happened

Mr T originally took out a pension with Friends Provident, which was then acquired by Friends Life and now by Aviva.

He explains that he is not in good health and had waited to access this pension hoping to draw the full amount as cash to purchase a bungalow to give him a better standard of living. Mr T says he did receive some paperwork but wasn't aware his options would be different at age 75 and had he known he would have taken steps to look into things. When he realised, he wouldn't be able to drawdown his pension, he complained to Aviva.

On 5 June 2023, Aviva issued its final response letter. It didn't uphold Mr T's complaint. It said it had sent numerous letters in the three years preceding Mr T's 75th birthday. Some letters asked him to call them to discuss his retirement options and others drew his attention to the fact options would be lost if he didn't decide before, he reached 75 years of age.

Disappointed, Mr T brought his complaint to his service.

An investigator looked into things for Mr T. She looked carefully at all the correspondence from Aviva since 2019. She found nearly all of them referred to Mr T's retirement options and asked him to contact Aviva to choose what he would like to do with his funds once he reached 75 years of age. The letters also explained what would happen with the policy if Aviva didn't hear from him once he reached 75. She found in total; nine letters were sent to Mr T regarding his options. The investigator found that all the letters were correctly addressed, and none were returned undelivered. So, in her view Aviva had informed Mr T about the options available for a number of years before he reached his 75th birthday and she didn't find it done anything wrong.

Our investigator spoke with Mr T after she issued her view. He was very disappointed. He felt Aviva was making up rules to benefit themselves and this had impacted greatly on his plans to purchase a bungalow which would make a huge difference to his standard of living. He asked for an ombudsman 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 have independently reached the same outcome as our investigator and I'm not going to uphold this complaint. I know Mr T will be disappointed, I'll explain why.

I have summarised this complaint in less detail than Mr T has done and, I've done so using my own words. I'm not going to respond to every single point made by all the parties involved. No discourtesy is intended by this; our rules allow me to do this. This simply reflects the informal nature of our service as a free alternative to the courts. If there's something I've not mentioned, it isn't because I've ignored it - I haven't. I'm satisfied I don't need to comment on every individual argument to be able to reach what I think is the right outcome. Instead, I will focus on what I find to be the key issue here – whether Aviva met its regulatory obligation to notify Mr T of his retirement options before his 75th birthday and the implication of not deciding beforehand.

It's probably important to say at the outset 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 in if the problem hadn't occurred.

I would also like to reassure Mr T that I have listened to the telephone calls between him, and this service and I am fully aware of the impact Mr T feels this issue has had on his ability to purchase a bungalow to improve his standard of living and I sympathise with the current issues he faces because of his ill-health.

But as I have said, my role here is to determine if Aviva has acted unfairly and I'm not persuaded it has done anything wrong. It sent a number of letters to Mr T before he reached 75 years of age, drawing his attention to the need for him to make some decisions and the implications if he did not. These letters were sent up to three years earlier and having looked at them carefully, they do make clear the action that he needed to take.

I appreciate Mr T would have liked the letters to have been in a different format and he has said he doesn't always read all the information in full. But this service isn't able to direct a business as to how it should communicate with its customers. The regulator sets out what should be included, and I can see the information required was contained within those letters.

Aviva has explained, Mr T can only take an annuity with them, or take an annuity with a tax-free lump sum but the terms of Mr T's plans don't provide for the payment of a tax-free sum beyond age 76. From listening to the calls, I was pleased to hear Mr T now has a pensions adviser and it is very important he reaches a decision before any further options are lost.

I'm satisfied Aviva made him aware of his options, in good time for him to act. And I don't think it made an error or treated him unfairly or unreasonably. So, whilst I sympathise with Mr T, I must be fair to both parties, and it wouldn't be reasonable for me to tell Aviva it can't follow its normal business practices. That means I can't uphold this complaint.

My final decision

For the reasons I have given I don't uphold this complaint and I make no award.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr T to accept or reject my decision before 26 October 2023.

Wendy Steele
Ombudsman