

The complaint

Mr G complains about how Aviva Life & Pensions UK Limited (Aviva) managed his application for an ill health pension.

What happened

Mr G said he needed to access his pension as he was currently unable to work due to his health and was under financial pressure and was becoming homeless. He felt that Aviva had not investigated his complaint professionally in that they had not investigated his personal medical situation correctly or thoroughly enough to make a professional decision. His health conditions meant his life expectancy was reduced and he felt this should mean he should be exempted from policies preventing him taking his pension. He felt they had been condescending.

Aviva said that Mr G contacted them asking to withdraw his pension due to ill health. It told Mr G he didn't seem to meet the ill health criteria. Mr G was unhappy and distressed so Aviva confirmed it would double check the position. It said his pension had to remain invested until the UK minimum retirement age which was currently 55. Its technical team confirmed that unless Mr G could produce confirmation from a UK medical practitioner that he met the HMRC ill health criteria, it could not allow access to the pension money before he reached age 55. It had not done anything wrong.

The investigator said the government sets the minimum age for taking benefits from a pension, currently 55. There are exceptions where someone has to retire due to serious ill health and has less than a year to live. Aviva had to comply with the rules set down by (HMRC) Her Majesty's Revenue and Customs. It required an ill health declaration to be filled in by a doctor to support evidence of the health position for HMRC. The investigator didn't think Aviva was wrong to decline the claim based on the information it had. It had explained the position and double checked it given his circumstances.

Mr G did not agree. He didn't feel the investigator had understood his health situation.

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.

HMRC set down requirements for pensions. These rules provide that no pension may be paid before the member reaches normal minimum pension age unless the ill-health condition is met. The Normal Pension age is currently 55 (but due to increase to 57 in April 2028). Pension scheme rules generally prevent a payment to members before this age. However individuals who are in 'ill health' may take benefits before the normal minimum pension age if certain conditions are satisfied. There are two grounds, ill health and serious ill health.

Ill health – to satisfy this condition requires evidence that the member is and will continue to be, medically incapable (either physically or mentally) of continuing their occupation as a result of injury, sickness, disease or disability and the member ceases to carry on that occupation. The evidence must be provided by a registered medical practitioner. However scheme rules may impose stricter requirements and may not offer this option at all.

Where there is '*Serious ill health*' then the scheme may commute the entire pension for a lump sum. This requires written evidence from a registered medical practitioner that the member is expected to live for less than one year.

Mr G has confirmed that he does not meet the serious ill health criteria and doubted a medical practitioner would confirm this. So it does not seem that Aviva has done anything wrong in refusing to make the payment on the grounds of serious ill health.

I would also say that it is up to Mr G to provide the required medical evidence not for Aviva (nor this service) to investigate his health or form a view about whether his health satisfies the requirement. That is the purpose of the certificate from the medical practitioner.

For completeness I asked Aviva if the rules of Mr G's pension scheme provided for payment in circumstances of ill health as well as serious ill health. It responded that as Mr G had not provided a medical certificate and was reluctant to get one, it could not consider this.

Based on the evidence presented, I don't think Aviva did anything wrong.

My final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 3 February 2024.

Colette Bewley
Ombudsman