

The complaint

Mr M complains that when he transferred the benefits from his Free Standing Additional Voluntary Contribution ('FSAVC') pension plan, he received less than Aviva Life & Pensions UK Limited had quoted.

What happened

In 1993, Mr M took out an FSAVC pension plan which Aviva later became responsible for. The plan had a normal retirement age of 60, which Mr M would reach in May 2022.

By 2021, Mr M was interested in transferring his FSAVC plan benefits to a flexi-access drawdown plan with another provider. After being contacted by Mr M, Aviva sent Mr M a transfer value quote on 9 February 2021. This said the current transfer value of his plan was £24,161.21 including a 'terminal bonus' of £2,717.29, but this value wasn't guaranteed. Around this time, Mr M engaged an independent financial adviser ('IFA').

On 21 May 2021, Aviva sent Mr M an 'anniversary certificate' which quoted the current transfer value as £24,680.60 including a 'final bonus' of £2,733.97, but neither the transfer value nor the final bonus were guaranteed.

On 2 September 2021, Mr M signed an application form for his new flexi-access drawdown plan. This application stated the approximate value to be paid from his FSAVC to this new plan was £25,500 and this represented the full value of the current plan.

Mr M's IFA asked Aviva for information about his FSAVC plan, including if there were guarantees, additional benefits or penalties. Aviva responded on 7 September 2021, providing basic policy information and quoting a 'transfer/surrender' value of £26,143.33.

Aviva sent Mr M and his IFA a 'retirement pack' on 8 September 2021. In the section titled 'Your plan's value', the pack said the value of Mr M's plan was £28,871.30, which included a loyalty bonus of £2,728 and a final bonus of £3,248.69. The pack then set out Mr M's options for taking his FSAVC plan benefits, including a lifetime annuity with Aviva, a one-off lump sum and a 'full fund transfer option'. Under the 'full fund transfer option', the pack estimated £28,871.30 would be paid to another provider but said this figure was not guaranteed.

Mr M's IFA called Aviva on 13 September 2021 and was quoted transfer value of £26,056.43, and essentially told that nothing would be lost on transfer.

On 16 September 2021, Aviva wrote to Mr M to say it had transferred £26,065.88 to his flexi-access drawdown provider in full and final settlement. Mr M called Aviva, as this was less than he expected from the retirement pack. Mr M says Aviva explained the difference as market fluctuations and assured him it wasn't the case that the 'loyalty bonus' he'd expected hadn't been included. Mr M also says that when his IFA then called Aviva to ask about the difference, Aviva assured it there was no penalty charge.

Mr M emailed his IFA on 21 September 2021 to say he'd raised concerns with Aviva but it could take some weeks to reply, so he didn't want to delay setting up his flexi-access

drawdown plan because *“I want the lump sum asap to pay for some of the work we are getting done on the house.”*

In response to Mr M's complaint, Aviva said it hadn't made any errors. That the difference was due to a loyalty bonus not being included, as this was only payable at retirement or after reaching the FSAVC plan's normal retirement age of 60. Mr M had transferred out before this, so the loyalty bonus wasn't payable. Aviva said it had quoted lower transfer values, excluding the loyalty bonus, to Mr M's IFA on 7 September 2021 and 13 September 2021.

Mr M came to our Service. He said he'd started the FSAVC plan about 25 years ago when he'd wanted to retire at age 55. And Aviva knew he was cashing it in at age 59, but its retirement pack didn't mention he'd lose a loyalty bonus. So Aviva didn't give him the choice to keep his FSAVC plan for another eight months until age 60 and receive the loyalty bonus. And when he called Aviva, it didn't know why he'd received less than quoted. Mr M thought Aviva should have paid him what it quoted.

While our Investigator was gathering evidence, Aviva confirmed it hadn't applied a loyalty bonus because Mr M's FSAVC benefits were transferred out before his retirement date. But it accepted its retirement pack had incorrectly included the loyalty bonus in the transfer information section, where it had estimated a transfer value of £28,871.30.

Our Investigator thought most of Aviva's communication quoted the correct transfer value, i.e. a value that didn't include the loyalty bonus. But he noted Aviva had itself accepted its retirement pack's full transfer estimate incorrectly included the loyalty bonus and thought it should pay Mr M £200 compensation for his loss of expectation. However, he thought that even if Aviva hadn't made this error, Mr M would still have transferred before he became eligible for the loyalty bonus because his building work meant he urgently needed the funds.

Mr M disagreed. He said Aviva told him in August 2021 that the transfer value was £28,871.30 and also confirmed this to his IFA stating there would be no deductions. And when he called about the transferred amount being smaller than this, Aviva said market fluctuations had caused the value to fall and didn't mention needing to reach age 60 to get the loyalty bonus. Mr M felt strongly that he would have waited to receive the loyalty bonus, as he'd be £2,800 better off. And that compensation of £200 wouldn't deter Aviva from giving misleading and incorrect information to other consumers.

As agreement couldn't be reached between all parties, Mr M asked for his complaint to be referred to an Ombudsman for a decision.

Whilst that referral was underway, Mr M reiterated some of his complaint points and said Aviva should have given him full information so he could make an informed decision about taking his FSAVC benefits. In addition, Aviva provided our Service with a full copy of the terms and conditions of Mr M's FSAVC plan.

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.

Firstly, I've considered the terms and conditions of Mr M's FSAVC plan. Regarding the loyalty bonus, they say *“Provided a Regular Contribution and/or Additional Regular Contribution is paid for a minimum period of years specific by the Company, a Loyalty Bonus may be added to the Member's Fund on the Retirement Date of the Member (or on the Member's death before his pension starts). The terms and conditions which apply in respect of payment of the Loyalty Bonus are determined at the absolute discretion of the*

Company...” So a loyalty bonus may be paid on Mr M’s retirement date, but only at Aviva’s discretion.

As Mr M transferred the benefits out of his FSAVC plan about eight months before his retirement date as recorded on that plan, I think Aviva has acted fairly and in line with the plan’s terms and conditions by not paying the loyalty bonus to Mr M.

However, Mr M argues that Aviva gave him misleading and inaccurate information about his plan, so he couldn’t make an informed decision about taking his FSAVC benefits.

Aviva itself accepts that in the retirement pack it sent to Mr M and his IFA on 8 September 2021, it incorrectly included the loyalty bonus in the transfer information section to estimate a transfer value of £28,871.30. So it’s not disputed that some of the information Aviva gave Mr M and his IFA was incorrect.

For completeness, I also think there were occasions where Aviva could have taken the opportunity to explain the limited circumstances under which the loyalty bonus could apply. Mr M’s IFA asked Aviva for information about his FSAVC plan in relation to transferring – including whether there were any guarantees, additional benefits or penalties - in writing on 6 September 2021 and in a call on 13 September 2021. On these occasions, I think Aviva could and should have seen that Mr M’s IFA was checking whether anything would be lost on transfer and taken the opportunity to explain the terms and conditions of the loyalty bonus. However, Aviva made no mention of it.

But as I say, it’s not disputed that Aviva gave Mr M and his IFA some incorrect information regarding his FSAVC plan’s transfer value. So I need to consider what Mr M would have done had Aviva not made any errors here, and had consistently told him the correct transfer value and that a loyalty bonus could apply if he took his FSAVC benefits after his normal retirement date in May 2022.

I appreciate Mr M feels very strongly that if Aviva had done so, he would definitely have postponed transferring his FSAVC plan benefits until reaching the plan’s retirement date, in order to receive the loyalty bonus that could then apply. However, I think it’s more likely than not that even if Aviva hadn’t made any errors, Mr M would have still transferred his FSAVC benefits in September 2021 and not waited eight months until his plan’s retirement date. I’ll explain why.

Based on the evidence I’ve seen, apart from the incorrect transfer value quote of £28,871.30 in the 8 September 2021 retirement pack, all the other transfer values Aviva quoted to Mr M and his IFA in 2021 were between approximately £24,000 and £26,000. More significantly, this was about the amount Mr M was expecting to receive from his FSAVC plan when he signed the application on 2 September 2021 to transfer its benefits to a new flexi-access drawdown plan with another provider – that application stated the approximate value to be paid from his FSAVC to this new plan was £25,500 and that this represented the full value of the current plan.

Further, I think Mr M’s personal circumstances meant he had a pressing need to access these benefits. That’s because his IFA’s call notes show that when Mr M called his IFA on 2 August 2021, Mr M said he was currently having a lot of work done on his house. And on 21 September 2021 Mr M emailed his IFA to say he’d raised concerns with Aviva but it could take some weeks to reply, so he didn’t want to delay setting up his flexi-access drawdown plan because *“I want the lump sum asap to pay for some of the work we are getting done on the house.”*

I appreciate that Mr M says he would have waited because it meant he’d be £2,800 better

off. And I accept this is a significant sum of money. But I've weighed this up against what I'm satisfied was Mr M's pressing need for the funds to pay for a significant amount of work that was underway on his house. And on balance, I'm satisfied Mr M would have chosen to receive a slightly smaller amount of money from his FSAVC sooner, rather than waiting at least a further eight months to receive any money at all from his FSAVC.

Taking all this into account, I don't think Aviva caused Mr M to lose out on a loyalty bonus he otherwise would have received.

Putting things right

However, I'm satisfied Aviva caused Mr M a loss of expectation, since the retirement pack it sent him on 8 September 2021 incorrectly quote the full transfer as £28,871.30. And I think Mr M was then left uncertain about what amount should have been transferred out of his FSAVC plan, before Aviva correctly explained to him that the discrepancy was due to a loyalty bonus not being included. So I think Aviva caused Mr M some unnecessary loss of expectation, confusion, and frustration, as well as some minor inconvenience in having to contact Aviva to query the difference. But I think this was over a relatively short period of time, because Aviva gave Mr M the correct explanation for the difference in amount a month after the transfer. Therefore, I think £200 is fair and reasonable compensation for the unnecessary distress and inconvenience Aviva caused Mr M.

I note Mr M thinks £200 isn't a deterrent for Aviva. But it's not the role of our Service to punish businesses. Instead, it's our role to consider individual complaints from consumers. And if we think the business has made errors, to consider whether they caused that consumer any unnecessary distress, inconvenience or financial loss. And this is what I have done in Mr M's complaint.

My final decision

For the reasons set out above, I uphold this complaint. Aviva Life & Pensions UK Limited should pay Mr M £200 compensation for the unnecessary distress and inconvenience it caused him.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 4 August 2023.

Ailsa Wiltshire
Ombudsman