

The complaint

Mr M complains that Aviva Life & Pensions UK Limited has treated him unfairly by refusing his request to alter the individual to whom dependent benefits will be paid from an annuity he purchased in November 2022.

What happened

Mr M agreed to purchase an annuity from Aviva in November 2022. At that time he described his marital status as “Intend to marry.” He asked Aviva to include some dependent benefits on the annuity such that his partner would receive 100% of the annuity income following his death. Mr M’s annuity started in January 2023.

Sadly, Mr M’s relationship with his partner has now ended. So he got in touch with Aviva to ask that the dependent benefits be paid to another person, such as a family member. Aviva explained to Mr M that the terms of his annuity were not able to be changed, so the dependent benefits would still be paid to his former partner. Unhappy with that response Mr M brought his complaint to us.

Mr M’s complaint has been assessed by one of our investigators. He thought that the terms and conditions of the annuity clearly set out that its terms could not be changed after it had been purchased. He thought it likely that those terms would have been shared with Mr M before the annuity purchase was completed, or at least during the 30-day cancellation period that Mr M was allowed. So he didn’t think that Aviva had done anything wrong.

Mr M didn’t agree with that assessment. So, as the complaint hasn’t been resolved informally, it has been passed to me, an ombudsman, to decide. This is the last stage of our process.

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.

In deciding this complaint I’ve taken into account the law, any relevant regulatory rules and good industry practice at the time. I have also carefully considered the submissions that have been made by Mr M and by Aviva. Where the evidence is unclear, or there are conflicts, I have made my decision based on the balance of probabilities. In other words I have looked at what evidence we do have, and the surrounding circumstances, to help me decide what I think is more likely to, or should, have happened.

At the outset I think it is useful to reflect on the role of this service. 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 if the problem hadn’t occurred.

When he purchased the annuity, Mr M didn't receive any advice from Aviva. He told the firm the basis on which he was intending to purchase the annuity, and Aviva provided him with a quotation of the benefits he could receive in exchange for the pension savings he held. Mr M opted to purchase an annuity paying him an annual income of £4,522,32 for the remainder of his life. And Mr M's annuity included a benefit for his partner who, if she outlived him, would continue to receive the same annual income for the remainder of her life.

Since Aviva didn't provide Mr M with any advice, or a recommendation, about the annuity it wasn't responsible for ensuring that it was suitable for his circumstances. That was essentially a decision Mr M needed to make for himself. But Aviva did need to provide Mr M with information about the annuity on which he could base his decision.

I think it likely that Aviva would have provided Mr M with some information about the terms and conditions of the annuity. In response to our investigator's assessment Mr M accepted that he might have missed the part of the policy terms relevant to this complaint. But I'm not persuaded that, at the time he purchased the annuity, being specifically aware of the information would have led to Mr M making a different decision.

As I said earlier, Mr M told Aviva that he was intending to marry his partner. So it seems that he thought the relationship would be long standing. And his decision to add a dependent's benefit to the annuity would suggest to me that Mr M expected the relationship to last for the remainder of his life. So I don't think he would have anticipated any need to alter the benefits he was purchasing in the future.

The terms and conditions of the annuity cover matters such as these and they are explained in a relatively short key features document. On the first page of that document there are two statements that are relevant here.

In a section headed "Your commitment" it says;

"To make a once and for all decision about the income you want."

And immediately below that, in a section headed "Risks" it says;

"You can't change or cash in your Pension Annuity or Enhanced Pension Annuity, even if your personal circumstances change."

So I am satisfied that Mr M has no opportunity to alter the terms of the annuity following its purchase, and that the information to that effect that Aviva provided to Mr M more recently is correct.

I can understand how disappointing this decision will be for Mr M and I have great sympathy for the situation he finds himself in. His former partner will now potentially benefit from his pension savings should she outlive him despite their relationship having ended. But the annuity Aviva sold was based on specific information about the health and lifestyle details of both Mr M and his former partner. So it wouldn't be fair for those details to be changed at a later date. And I think that risk was made sufficiently clear in the information Aviva would have provided to Mr M at the time of his annuity purchase.

My final decision

For the reasons given above, I don't uphold the complaint or make any award against Aviva Life & Pensions UK Limited

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or

reject my decision before 25 October 2024.

Paul Reilly
Ombudsman