

Ombudsman's Determination

Applicant	Mr T
Scheme	Aviva Annuity Policy (the Annuity)
Respondents	Aviva Life and Pensions UK Limited (Aviva)

Outcome

1. I do not uphold Mr T's complaint and no further action is required by Aviva.

Complaint summary

2. Mr T has complained that Aviva refused to pay him a lump sum from his Annuity.

Background information, including submissions from the parties

3. Mr T had an existing personal pension plan with Aviva.
4. On 15 February 2010, Aviva sent Mr T the retirement options available from his personal pension plan, saying:-
 - Mr T could take a lump sum of £6,231 and an annual annuity from Aviva of £1,115.
 - Annuity quotations could be provided on a different basis if requested.
 - Mr T could take an annuity from Aviva or chose to move his pension fund to another annuity provider.
 - Mr T could decide not to take his retirement benefits and defer his benefits up to age 75.
5. On 23 February 2010, Mr T instructed Aviva to pay him the lump sum and set up an Annuity.
6. On 26 February 2010, Aviva confirmed payment of the lump sum to Mr T and that the Annuity had been set up.
7. Mr T telephoned Aviva in 2018 to ask for a further lump sum payment and Aviva advised Mr T that he could not take a lump sum from the Annuity.

8. On 23 November 2018, Mr T wrote to Aviva, and explained that despite what Aviva had said, his colleagues and financial adviser had told him he could take a further lump sum. Mr T also explained that he was due to go into hospital shortly and needed money urgently. As he was unlikely to work again, he needed the lump sum.
9. On 22 January 2019, Aviva replied saying:-
 - The Government abandoned a proposed plan to allow annuities to be cashed in.
 - The Annuity paid Mr T a regular income for his lifetime.
 - The Annuity had no monetary value and could not be cashed in.
 - Mr T could take money from a “pension pot” (a pension plan where no benefits have been taken) but as Mr T has already used the value of his pension plan to purchase the Annuity, he could not withdraw further funds.

Adjudicator’s Opinion

10. Mr T’s complaint was considered by one of our Adjudicators who concluded that no further action was required by the Aviva. The Adjudicator’s findings are summarised below:-
 - Mr T received the maximum lump sum available from his personal pension in 2010 and his remaining fund value was then used to secure a lifetime annuity.
 - Once an annuity has been purchased it is irreversible, and the Annuity cannot be encashed.
 - In 2016, the Government did consider allowing pensioners to sell their annuities in exchange for a lump sum but following a consultation, the Government decided against this.
 - The Adjudicator was satisfied that Mr T was receiving his annuity in accordance with his instructions to Aviva. He will continue to receive his annual annuity for life, but no further lump sum is due to him.
 - When Mr T chose to take the Annuity, Aviva explained it was up to him to seek advice from a financial adviser if he did not understand the options available.
11. Mr T did not accept the Adjudicator’s Opinion and the complaint was passed to me to consider.
12. Mr T provided his further comments which do not change the outcome. Mr T has argued that:-
 - He was under the impression he could withdraw the remaining money at any time.

- He was never given any advice or direction as to what he was signing when setting up the Annuity.
- He wanted to cancel the plan, as he is a pensioner and is in desperate need of the money.

13. I agree with the Adjudicator's Opinion and I will therefore only respond to the points made by Mr T for completeness.

Ombudsman's decision

14. I appreciate Mr T wants to cash in the Annuity due to his financial circumstances, and I have sympathy for his current situation. However, unfortunately, Mr T's decision to purchase the Annuity cannot now be reversed, and Mr T cannot cash in his Annuity.

15. The Government did consider the option of letting a pensioner sell their annuity in exchange for a lump sum but decided against this following a consultation.

16. Mr T said he did not get guidance when completing the forms for the Annuity. Aviva's role would have been to provide information on his options. Aviva explained that Mr T should seek financial advice to ensure he understood the options, and it was therefore up to Mr T to consider if he wanted to do this before deciding how to take his pension benefits.

17. Mr T completed and returned the paperwork asking for the lump sum and the Annuity to be set up. I am satisfied Mr T is receiving the Annuity in accordance with his instructions to Aviva.

18. I do not uphold Mr T's complaint.

Anthony Arter

Pensions Ombudsman
29 November 2019