

## Ombudsman's Determination

Applicant	Mr D
Scheme	Aviva Multi Pension Personal Plan ( <b>the Plan</b> )
Respondent	Aviva

## Outcome

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

## Complaint summary

2. Mr D has complained that the terminal bonus he received from the Plan when he retired was lower than quoted in earlier communications with Aviva. He has asked Aviva to restore his terminal bonus to the higher level.
3. Mr D has raised the following additional concerns:-
  - The 'misplacement' of his funds by Aviva.
  - The fact that Aviva ignored his complaint for 18 months.
  - The fact that he did not receive a breakdown of what his maturing policy consisted of.
  - The lack of notice provided by Aviva when reducing its terminal bonus rate.

## Background information, including submissions from the parties

4. The Plan was originally secured with Equity & Law Life Assurance Society plc. It then moved to Friends Life and then to Aviva where it was held at the time of Mr D's retirement. Mr D had been paying into the Plan for a number of years, which is invested in a with-profits fund.
5. On 26 February 2017, Aviva issued a quote for the terminal bonus that related to Mr D's entitlement under the Plan.
6. On 4 December 2017, Aviva corrected the terminal bonus figure quoted on 26 February 2017, in a telephone conversation with Mr D. It told Mr D that the cause of the error was an incorrect profit start date that had been input in its new system. This

had resulted in Mr D's terminal bonus being based on an 11 year term rather than a term of over 32 years.

7. On 18 January 2018, Mr D acknowledged the correction Aviva made that it had communicated to him on 4 December 2017. He asked it to explain why the terminal bonus, post correction, had fallen from £43,569.42 to £41,767.88.
8. Mr D stated that he chased Aviva for a response to his letter of 18 January 2018 on three occasions, but he did not receive a reply.
9. On 23 April 2018, Mr D's retirement benefits were finalised. The total value of his benefits at that point in time included a terminal bonus of £38,451.34.
10. On 9 August 2019, Mr D telephoned Aviva to query the reduction in his terminal bonus.
11. On 13 August 2019, Aviva responded by email to Mr D's telephone call of 9 August 2019. It apologised that he had not received a response to his letter of 18 January 2018. It stated that:

"The key issue in setting Terminal Bonus rates is to achieve a fair payout to the policyholder in comparison to the performance of the underlying assets backing the With Profits fund. The final payout should fairly reflect the performance of the fund via the addition of Terminal Bonus, if the existing Regular Bonuses have not already done this."

12. In this email, Aviva also stated that:

"The increases in the stock market over recent years must also be considered relative to the stock market downfall in earlier years, rather than in isolation."

13. On 15 August 2019, Mr D telephoned Aviva again to request further information on his terminal bonus.
14. On 22 August 2019, Aviva responded in writing to Mr D's telephone call of 15 August 2019. It again apologised that he had not received a response to his letter of 18 January 2018. It stated that bonus rates were never guaranteed and that any rates quoted previously could change.
15. In this letter, Aviva also provided the following explanation to Mr D in relation to the method of calculation of its terminal bonus rates:

"On withdrawal the policy value will be made up of the unit value (which is guaranteed) and any terminal bonus. The terminal bonus is therefore the amount required to be added to the guaranteed value to bring it up to the fair value that we believe we should pay.

There is therefore no formula that we use to derive terminal bonus rates but rather we look at the whole book of business maturing and derive a smooth scale that gives us the fair payouts that we require."

16. Mr R remained unhappy that his terminal bonus had fallen by approximately £1,800 when compared to an earlier quotation. On 14 November 2019, Aviva responded to Mr D's complaint. It referred back to the points made in its earlier letters and reiterated that the drop in Mr D's terminal bonus was due to a drop in the bonus rate.
17. On 11 March 2020, Aviva confirmed that the following changes to terminal bonus rates applied over the period close to Mr D's retirement. It stated that the fluctuations in these rates caused the reduction in Mr D's terminal bonus:-
  - July 2017 – reduction from 72% to 64% based on a term of 32 years.
  - January 2018 – reduction from 64% to 58% based on a term of 32 years.
  - February 2018 – reduction from 58% to 57% based on a term of 33 years.
18. Aviva also commented that it was not its policy to write to members when there was a change to the terminal bonus rate. It stated that this was due to the rate not being guaranteed. It also provided a breakdown of the figure used to finalise Mr D's benefits between the main fund value, the reorganisation bonus and the terminal bonus.
19. Mr D stated that, prior to 2018, he received a number of statements showing the latest value of his terminal bonus. Aviva was unable to provide copies of these statements. It provided the wording below which it stated was added to annual statements for policies invested in with-profits funds. This is consistent with similar wording that appeared on a statement that it sent to Mr D on 27 January 2018. This wording was:

“On retirement, death, transfer and switching out of the Aviva Life & Pensions UK Limited FLC With-Profits Sub-Fund we may add a final bonus to the value of the units. We calculate the final bonus based on the period the investment has been held continuously in the Aviva Life & Pensions UK Limited FLC With-Profits Sub-Fund and the performance of the fund over that time. Please remember the final bonus amount can go up or down at any time.”
20. The Plan's terms and conditions, Page 20, Section 3 under 'At Normal Retirement Date' state:

“On survival of the Annuitant to the Normal Retirement Date, the Society will pay, in accordance with the terms of the clause entitled 'Payment of Retirement Benefit' ... (c) In respect of Units in the With-Profit Fund allocated to the Policy at that time, an additional bonus, if any, to be determined at the time by the Society.”

## **Adjudicator's Opinion**

21. Mr D's complaint was considered by one of our Adjudicators who concluded that no further action was required by Aviva. The Adjudicator's findings are summarised below:-

- The Adjudicator said that the payment of a terminal bonus is a common feature of pension plans of this type that include a with-profits element. The Adjudicator went on to state that it is also common for terminal bonus rates not to be guaranteed and for them to fluctuate on a regular basis, going both up and down. The Adjudicator noted that the statements issued by Aviva included this warning.
  - The Plan's terms and conditions state that the terminal bonus is determined by Aviva at the time of retirement. In calculating Mr D's benefits, the Adjudicator was satisfied that Aviva had correctly followed these terms.
  - The Adjudicator took the view that Aviva has the discretion to set its own terminal bonus rates. The Adjudicator did not consider that there was anything unusual about the terminal bonus terms under which the Plan operated. He also noted that Aviva had summarised to Mr D what adjustments it made to its rates in the year before he took his benefits.
  - The Adjudicator did not agree that Mr D's funds had been misplaced, but rather that an error had occurred in February 2017, when Mr D's terminal bonus was misquoted by Aviva. Aviva confirmed that this was due to an incorrect profit start date being recorded on its new system. The Adjudicator was of the view that this would have been a cause of confusion and inconvenience to Mr D. However, it would not have been a cause of significant distress to him, as the error was corrected before his retirement in April 2018.
  - The Adjudicator noted that Aviva had, on two occasions, apologised to Mr D for its delay in responding to his complaint. Also, it was noted that Aviva confirmed that the regular statements that it issued to Mr D stated that the final bonus could go up or down at any time. The Adjudicator was of the opinion that Mr D suffered some frustration due to the delay in Aviva responding, but took the view that the information on the regular statements Mr D received was of use in explaining the situation.
  - Mr D said that he had not received a breakdown of what his maturing policy consisted of. This information was subsequently provided in Aviva's communication of 11 March 2020. The Adjudicator was of the opinion that no further action was required on this point.
  - Mr D stated that he was unhappy with the lack of notice provided by Aviva when reducing its terminal bonus rates. The Adjudicator took the view that Aviva's policy not to communicate to members every time the rate changes was not unreasonable.
22. Mr D did not accept the Adjudicator's Opinion and the complaint was passed to me to consider.
23. Mr D provided his further comments which do not change the outcome. He said:-

- The reasons behind large cuts in terminal bonus rates should have been explained so that they could be independently verified as being reasonable.
- The apology provided by Aviva was inadequate. It should have come from a more senior member of the customer services team, explaining in more detail what went wrong.
- Inadequate concern has been given to Aviva's reduction of £28,729 to his bonus and the fact that it was only resolved when he asked Aviva to investigate.

24. I agree with the Adjudicator's Opinion and note the additional points raised by Mr D.

### **Ombudsman's decision**

25. I am satisfied that the terms of the Plan in relation to the terminal bonus are consistent with what could be considered as standard practice across the industry. I also note that Aviva was transparent in its communications in relation to the fact that terminal bonus rates could go up as well as down.
26. I do not agree with Mr D's statement that Aviva should be required to provide a more detailed explanation of the reasons behind the cuts in its terminal bonus rates. In Aviva's email of 13 August 2019, it provided details of the rationale behind the approach used when setting its terminal bonus rates. I find its response to be adequate given that the Plan's terms and conditions give Aviva full discretion when setting its terminal bonus rates, there being no guarantees in place.
27. The responses that Mr D has received from Aviva have come from its Customer Care Team. I am satisfied that this is an appropriate area of Aviva's business to be dealing with the points raised by Mr D.
28. I agree that Aviva did make an error when transferring Mr D's record to its new system, having input an incorrect profit start date for him. This resulted in Mr D receiving a statement that included an incorrect terminal bonus figure. I consider that this would have been a cause of concern for Mr D. In addition, it did result in additional effort for him as he had to query the figure with Aviva before it made the necessary correction. However, the correct terminal bonus was paid to Mr D when he came to take his benefits. I do not agree that the error would have been a cause of significant distress for Mr D.
29. I do not uphold Mr D's complaint.

**Anthony Arter**

Pensions Ombudsman  
17 February 2021

