

Ombudsman's Determination

Applicant	Mr N
Scheme	Sun Life Flexible Executive Pension Plan (the Plan)
Respondents	Aviva Life & Pensions UK Limited (Aviva)

Outcome

1. I do not uphold Mr N's complaint and no further action is required by Aviva.
2. My reasons for reaching this decision are explained in more detail below.

Complaint summary

3. Mr N's complaint against Aviva is about the performance of the Plan funds. Mr N says that the current value of his Plan pension is not worth much more than the cash originally invested in the Plan between 12 October 1995 and 19 December 1999.

Background information, including submissions from the parties

4. Between 12 October 1995 and 19 December 1999 Mr N paid contributions into the Plan with Sun Life. The responsibility for its administration eventually passed to Aviva.
5. On 16 January 2018, Mr N sent an email to Aviva asking a number of questions about the Plan.
6. On 28 April 2018, in response to receiving some information from Aviva, Mr N questioned whether its management of the Plan was competent and queried what he considered to be low investment returns.
7. On 4 May 2018, Mr N submitted a complaint to Aviva as he was not satisfied with the investment growth of the Plan and the information he had received from Aviva.
8. On 1 August 2018, Aviva responded to Mr N's complaint. It argued that Mr N's Plan was invested in a number of funds that were vulnerable to stock market fluctuations. It further argued that the stock market was volatile due to the effects of the global downturn following the significant financial crash in 2008.

9. Aviva also argued that it was entitled to deduct units to cover fees on the Plan in line with the original terms and conditions.

Adjudicator's Opinion

10. Mr N'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:-
- Mr N had not suffered a financial loss.
 - The original Plan document clearly lays out that Aviva has the right to set and deduct management charges at its "sole discretion".
 - The Adjudicator appreciated that Mr N was disappointed to learn the true position of his pension but did not consider this to have resulted from maladministration by Aviva.
 - It would have been reasonable for Mr N to have monitored the charges Aviva applied to his pension and its investment returns.
 - Investment returns are never guaranteed within a pension fund and Mr N had presented no evidence that Aviva has been negligent in running his pension fund.
11. Mr N did not accept the Adjudicator's Opinion and the complaint was passed to me to consider. Mr N provided his further comments which do not change the outcome. I agree with the Adjudicator's Opinion and I will therefore only respond to the key points made by Mr N for completeness.

Ombudsman's decision

12. Mr N did not agree with the Adjudicator's view that he could have taken action to monitor the value of his pension. I do not expect Mr N to be an expert on pensions. This office typically takes the approach of considering what a normal person, acting reasonably, might be expected to do in a given situation. A pension is a valuable asset. It would have been reasonable for Mr N to have considered the growth of investments and provision of charges on the Plan at some point in the 23 years since he began paying into it.
13. Mr N argues that the Plan must have been badly managed because of the low level of growth he cites as the basis of his complaint. However, I do not find that to be a reasonable conclusion to reach based on the facts of the case. Mr N has provided no evidence to support his argument that Aviva has poorly managed the Plan. It is also entirely valid for Aviva to make the point that there has been significant volatility in the global stock market. Mr N would not need to be an expert on pensions or investments to realise that a significant economic downturn might affect the Plan's investments.

Aviva has subsequently provided contemporaneous documents for the Plan that it had not made available before the Adjudicator provided his initial view. This leaflet lays out the key features of the Plan and, on the subject of investments, it stipulates that “the value of units can also fall”. Consequently, I find that Mr N was provided with information about the volatility of the Plan’s investments; it would have been reasonable for him to have ascertained the true position of his Plan much earlier and if he were unhappy with the particular investments he could have changed them.

14. Whilst I understand that Mr N was disappointed to learn the true position of the investment return, I do not find it to have been caused by maladministration by Aviva.
15. Therefore, I do not uphold Mr N’s complaint.

Anthony Arter
Pensions Ombudsman
8 March 2019