

Ombudsman's Determination

Applicant	Mr E
Scheme	Winterthur Life and Pensions Retirement Annuity Contract (the RAC)
Respondent	Aviva UK Life & Pensions Limited (Aviva)

Outcome

1. I do not uphold Mr E'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 E believes that Aviva is responsible for a loss of £1,415 per annum in his pension income from age 60.

Background information, including submissions from the parties

4. On 1 March 1984, Mr E commenced the RAC, now administered by Aviva, and paid regular contributions up to 1 April 1985. The RAC contained a guaranteed annuity rate (**GAR**) at Mr E's selected retirement age of 60.
5. On 13 January 2016, around six months before Mr E's 60th birthday, Aviva issued a retirement pack to him. This document was returned to Aviva with the notification of 'addressee gone away'.
6. Aviva performed an address tracing service and located a new address for Mr E. Aviva wrote to this new address on 21 April 2016 requesting, if this was the correct address for Mr E, that he sign and return the enclosed address confirmation form. Mr E signed this form on 25 April 2016 and returned it to Aviva.
7. On 9 May 2016, Aviva issued the retirement pack to the new and confirmed address. The retirement pack included the following warnings:

"A guaranteed annuity rate applies to your plan at your selected retirement date of 6 June 2016."

and,

“It is important to remember that your pension fund has a guaranteed annuity rate option. This usually means that you can get a higher income from us than you could from another company. You will **lose the guaranteed annuity rate** [original emphasis] if you buy your annuity rate with another company.

You will lose your guaranteed annuity rate option if you take your benefits later. Your illustration has been provided on this basis.”

8. Aviva did not receive a response from Mr E until his financial adviser contacted it in October 2016.
9. In March 2017, Mr E raised a complaint with Aviva as he felt he had not been made aware of the applicable time limits on the GAR. Aviva did not uphold the complaint and Mr E asked this Office to investigate.
10. In its response to this Office, Aviva provided a copy of product information relevant to the RAC, available on a previous administrators’ website in 2008. This said:

“Benefits at retirement

- Provided the benefits are taken at the selected retirement age, a guaranteed annuity rate will apply. The guaranteed annuity rate only applies to annuities set up on a single life basis, payable in advance, level in payment with a 5 year guarantee. If the benefits are taken early, late, transferred to another provider or a different annuity basis is requested (such as joint life), the guarantee will be invalidated.”

Adjudicator’s Opinion

11. Mr E’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 E would have selected the retirement age of 60 when he first took out the RAC;
 - Aviva was required to issue a retirement pack six months before the selected retirement date;
 - there is no evidence that Mr E notified Aviva of his change of address;
 - when Aviva received the returned retirement pack in January 2016, it took reasonable steps to locate Mr E’s new address and did so in a timely manner; and
 - the new retirement pack was issued to the correct address, as confirmed by Mr E, so on balance Mr E likely received the pack with the information about the GAR.
12. Mr E did not accept the Adjudicator’s Opinion and the complaint was passed to me to consider. Mr E 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 E for completeness.

Summary of Mr E's comments

- The administrator has changed hands many times since the start of the RAC, so Mr E was not sure which company held the policy.
- Mr E moved to a new house in May 2015 and had a mail redirection service in place for 12 months.
- The undelivered slip on the retirement pack envelope shows that Mr E did not receive it.
- Mr E will lose out on an annual income of £1,415 for the rest of his life as a result of missing the deadline to accept the GAR.
- To allow the GAR for only one day is not fair, and in doing so Aviva has not allowed Mr E sufficient opportunity to accept the GAR.

Ombudsman's decision

13. Mr E has said that he did not receive either of the retirement packs. I can agree with him that he did not receive the first pack issued in January 2016, and Aviva has provided a copy of the returned envelope as evidence of this.
14. Aviva acted appropriately in searching for a new address for Mr E, who confirmed his new address to Aviva in April 2016. Aviva then re-issued the retirement pack to this address. Given the new address had been recently confirmed, I find it more likely than not that the retirement pack dated 9 May 2016 was delivered to Mr E.
15. The retirement pack contained adequate warning that the GAR would apply only on Mr E's selected retirement date of 6 June 2016. Even though Mr E would not have had the full six months to review his options, I find that he had sufficient time to take action on a valuable benefit.
16. The element of the time limit to a GAR was common place for RACs or section 226 policies, as they are also known. The terms and conditions would have been made available to Mr E at the start of his RAC in 1984. Whilst I appreciate a significant amount of time has passed since then, it does not make the terms redundant, nor does it mean that Aviva is able or obligated to make adjustments to these terms.
17. Aviva has further shown that information about the limitations of the GAR continued to be available to policyholders, such as Mr E, on the relevant administrators' websites
18. I note that Mr E believes his loss to be £1,415 per year for the rest of his life. However, he has misunderstood. The fund value quoted in the retirement pack was

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£1,415. The income figure based on a single life, non-escalating annuity with no tax-free cash would have been £125 per year, had Mr E taken benefits on his selected retirement date. This fact does not change my decision, but I include this point as it may affect Mr E's perception of his loss.

19. I also note that Mr E did not update Aviva when he moved address. I appreciate that it has been some time since the inception of the RAC, however the policyholder has a responsibility to keep track of their policy details, and a responsibility to update the administrator of any changes to their personal details. Unfortunately, from what he has said he relied on the Post Office redirection service and this appears to have let him down.
20. I do not uphold Mr E's complaint.

Anthony Arter

Pensions Ombudsman
19 December 2018