

## **The complaint**

Mrs W complains that Aviva Life & Pensions UK Limited failed to pay an income payment from her pension savings in a timely manner. As a result of that delay, the income she received was paid in a subsequent tax year to that she intended.

## **What happened**

Mrs W has been assisted in making her complaint, and in her dealings with Aviva, by her financial advisor. But, for ease, in this decision I will not always distinguish between the actions of Mrs W and her advisor, or between who communications were made or received by.

Mrs W's husband also made a similar income request to Aviva at the same time. He faced the same problems that form that basis of this complaint. I am dealing with Mr W's complaint separately but given the identical nature of their complaints I make no apology for the similarities in my final decisions.

Mrs W held pension savings with Aviva. In March 2020 she decided to make a withdrawal from her pension savings. She intended to take part of that money as a pension commencement lump sum ("PCLS" – often known as tax free cash) with the remainder being subject to income tax. Mrs W wanted to receive the payment before the end of the 2019-20 tax year in April.

On 25 March Mrs W's financial advisor started to input the payment instruction using Aviva's online system. But he received an error message and was unable to complete the instruction. He tried, and failed, to contact Aviva by phone so he sent an email to Aviva seeking some assistance. He was aware that the Aviva deadline for payments to be made before the end of the tax year was the following day.

The following day, Mrs W's advisor hadn't received any response from Aviva so he entered the instruction in the form of a regular payment as that was the only method he could find to allow the system to accept his request. He again followed that instruction up with a further email explaining his actions, and asking that Aviva assist him in correcting the system problems.

Aviva was unable to correct the instruction. And given the normal timescales that applied to regular payments, rather than one-off withdrawals, the income payment wasn't received by Mrs W until the start of the following tax year. She complained to Aviva about what had happened.

At first Aviva failed to deal with Mrs W's complaint and overlooked its response. So when, the following year, it sent her its final response it offered her £200 for the inconvenience she'd been caused by the delay. And in its final response letter Aviva said that it would alter the payment date for Mrs W's income to the previous tax year, and update HMRC.

But over the following days Aviva explained that it had investigated the matter further and was no longer able to offer to backdate the payment that had been made. It said that its

investigations indicated that it hadn't been response for the delay and so couldn't make the request to HMRC. It said the income payment had been made in accordance with the instruction it had been given.

Mrs W's complaint has been assessed by one of our investigators. He didn't think that Aviva should backdate the payment as he thought the delay had been caused by Mrs W's financial advisor entering the instruction incorrectly. The investigator noted that Aviva had offered to pay a further sum of £150 to reflect the distress and inconvenience it had caused by not responding to Mrs W's advisors request for help in a timely manner. He thought that the payment Aviva had offered for the inconvenience caused was reasonable.

Mrs W 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 Mrs W 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.

The weeks leading up to the end of the tax year are a very busy time for firms such as Aviva. So it is common practice for firms to provide advance notice of deadlines that might apply for the receipt of instructions to ensure their completion before the tax year end. In 2020 the guidance from Aviva stated that online instructions for one off withdrawals, such as the one intended by Mrs W, would need to be received by close of business on 26 March.

So it is against that backdrop that Mrs W's financial advisor started to input the one-off withdrawal instruction on 25 March. It seems that the withdrawal might have been planned for some time, with the necessary funds being held within the pension savings in cash. But when the instruction was submitted the financial advisor received an error message and was unable to proceed any further.

At that time, the support that Aviva was able to offer had been severely impacted by the government regulations in response to the start of the coronavirus pandemic. Whilst Aviva accepts that the service it was providing fell short of its normal aspirations, I don't think it would be reasonable to conclude that was as a result of a failing by the business. It was facing exceptional circumstances that required a significant change to its working practices. It is understandable that there might have been a period of time where Aviva was less able to respond in as timely a manner as normal.

Aviva has explained to us why Mrs W's original one-off withdrawal instruction returned a processing error. It has said there was a mismatch between the source of funds chosen to provide the income (cash), and the information that was input later in the process where the fund source was shown as pro-rata. And it says that Mrs W's financial advisor was trying to input a taxable withdrawal using pre-retirement (uncrystallised) funds, whereas a payment of that nature would need to be taken from a post retirement (crystallised funds) account.

It seems to me that Aviva's explanations for the errors faced by the financial advisor when inputting the instruction are plausible and most likely represent the root cause of the problem. I entirely accept that, had telephone support been available to the financial advisor at the time, he would most likely have been able to place a correct and valid instruction. But, as I've explained above, I think the cause of that lack of telephone support was reasonable and largely outside the control of Aviva.

Mrs W's financial advisor appears to have been very aware of the importance of the impending deadline. So when he wasn't able to obtain any immediate support from Aviva to allow the completion of the one-off withdrawal instruction he decided to input a regular withdrawal instruction instead. The impact of that instruction allowed for the PCLS to be paid, almost immediately, to Mrs W. But it meant that, in line with Aviva's normal processing standards for an instruction of that nature, the taxable income wouldn't be paid until after the end of the tax year.

I can see that Mrs W's financial advisor appears to have been very aware that the instruction he had submitted was incorrect. And so he took immediate steps to contact Aviva and ask that it be amended to reflect the intentions of Mrs W, that had been blocked by the error encountered on the initial instruction.

There is no doubt that, in the following days, the responses from Aviva produced some expectation that the payment instruction could be successfully amended to reflect Mrs W's objectives. But, as time went on, and more specialist teams from Aviva became involved, it became clear that would not be the case. Aviva appears to have had no easy method to alter the submitted instruction, nor the available resources to fast-track a new payment.

There is no doubt how disappointing that apparent change of approach from Aviva would have been for Mrs W. I accept that her financial advisor had taken the steps he thought were necessary to provide the best opportunity for the payment to be made on time. But ultimately I am satisfied that the reason the original instruction produced an error wasn't because of something that was wrong with Aviva's systems – I think the financial advisor had most likely made a mistake when adding it. So I don't think that I should have any expectation that Aviva should be required to make things right.

It does appear that Aviva, at a relationship manager level, wanted to provide whatever assistance it could to Mrs W and her financial advisor. But ultimately it is the processing teams that would need to make any corrections. And those teams are best placed to understand the resourcing and systems limitations that might be applicable. As I've said earlier this would have been an extremely busy period for those teams, made significantly worse by the changes to working practices brought about by the government coronavirus restrictions.

In summary I haven't seen anything to suggest that Aviva's systems were at fault for the failure of the initial instruction. Instead I am persuaded that it is most likely that the instruction failed because of input errors by the financial advisor. I have no doubts that, had the financial advisor been able to access telephone support from Aviva whilst inputting the instruction, the problems could have been identified and resolved. But I find the explanation for the absence of that support to be reasonable. I am satisfied that Aviva made reasonable efforts, given the time and resourcing pressures, to correct the instruction ultimately placed by the financial advisor. But overall I'm not persuaded that I should require Aviva to have made those corrections, despite its earlier offer to do so.

The telephone support that Aviva was able to provide to Mrs W and her financial advisor fell short of what it would expect. Whilst I have found the reasons for that to be acceptable, there is no doubt that Mrs W has been caused a degree of distress and inconvenience as a result. In total Aviva has offered Mrs W £350 in compensation for that inconvenience. My understanding is that £200 of that compensation has already been paid. But Aviva should now ensure that Mrs W has been paid the entire £350 should she accept this final decision.

### **Putting things right**

Aviva has offered to pay Mrs W £350 for the distress and inconvenience she has been caused by the lack of telephone support in the lead up to her taking her pension income. Aviva should pay to Mrs W whatever balance of that amount remains outstanding.

### **My final decision**

My final decision is that I uphold part of Mrs W's complaint and direct Aviva Life & Pensions UK Limited to put things right as detailed above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs W to accept or reject my decision before 2 November 2022.

Paul Reilly  
**Ombudsman**