

The complaint

Mr D complained to this service as he felt Aviva Life & Pensions UK Limited had not sent him information or acted as they ought to have done when he came to take benefits.

What happened

In summary, on 27 February 2020 Mr D contacted Aviva as he wanted to take benefits from his pension. He referred to having seen the impact of the financial markets on the performance and value of his pension. Aviva explained they needed to send him a retirement options pack. Aviva say they advised Mr D it could take until 7 March 2020. Mr D wasn't happy with this and indicated he wanted to complain.

Aviva say they explained to Mr D that a number of customers had come to the same conclusion as him and as such they were busier than usual. They say they explained this meant their turnaround times were being somewhat increased. Mr D says Aviva had previously said the pack would take three days to arrive.

Mr D called Aviva again on 27 February 2020 as he was unhappy with what he had been told and wanted his pension to be frozen. Aviva said they couldn't do this.

On 3 March 2020 Mr D contacted Aviva to let them know his pack had not arrived. The request was reviewed and escalated as Aviva realised Mr D's request on 27 February 2020 had not been actioned. On 4 March 2020, Aviva sent Mr D his pack; it was however wrongly sent by surface mail and not email. Mr D is unhappy as he says Aviva promised him the pack would be with him by 5 March 2020. Aviva say they escalated Mr D's request on 3 March 2020, due to their error in respect of the 27 February 2020 request.

On 6 March 2020, Aviva contacted Mr D. They identified Mr D's pack had been sent by post and not email. On 9 March 2020 the pack was sent to Mr D by email. Aviva also contacted Mr D and offered him £250 to reflect the impact of the distress and inconvenience caused. Aviva also agreed to review if there had been any financial loss occasioned to Mr D.

On 11 March 2020, Aviva received Mr D's completed pack. Mr D does not agree what he returned to Aviva ought to be described as a completed pack. Mr D agrees he returned the required information.

Aviva say they completed their relevant checks and work for the next stage to progress the claim on 12 March 2020, so this date (12 March 2020) was used as Mr D's valuation date. Payment then being made on 17 March 2020.

Aviva said they would complete a loss calculation on the basis Mr D ought to have received his pack on 5 March 2020. They said their loss calculation then allowed for a three working day turnaround to follow, as that was how long it had taken for Mr D to return his pack and for them to complete the next stage. This meant the loss calculation was to be worked out as if Mr D's valuation date was 10 March 2020. Aviva also offered to pay interest at 1.5 % simple a year on any loss sum. Mr D disagreed and the complaint was referred to this service.

Investigator's view

In summary the investigator's view was that Aviva hadn't offered enough. She said Aviva ought to have used a different date on which to assess loss, and that interest at 8% simple a year needed to be paid up to settlement, on any loss figure identified. She also thought Aviva ought to be required to pay Mr D a total of £500 to reflect his distress and inconvenience (so an additional £250 to the original offer).

Responses to the view

For various reasons neither Mr D, nor Aviva accepted the recommendations of the investigator.

Provisional decision

On 12 September 2022 I issued a provisional decision in this case. In this I set out that I intended to uphold the complaint, but that I intended to depart from the thinking of the investigator.

I thought Aviva's original offer, apart from their approach to interest was fair overall. The date of 10 March 2022 being used for the loss calculation was not unreasonable and the offer of £250 had been fair in the circumstances. I indicated it was right for Aviva to pay interest at 8% simple a year on any loss sum.

Aviva's response to the provisional decision.

Aviva accepted my provisional decision. They confirmed they had made a payment to Mr D on 27 April 2020 of £10,010.69 to reflect their original loss calculation. Aviva reached the figure using 10 March 2020 as the loss calculation date. They had added interest on the full sum for period of 10 to 17 March 2020, which was up to the date Mr D received his benefits; and then a further addition of interest onto the loss figure, calculated to 24 April 2020, their resolution date. Aviva agreed they would go on to calculate any additional interest due.

Mr D's response to the provisional decision

Mr D wasn't happy with my provisional decision. I am not going to set out everything he sent in response; however I have read it with care.

Mr D is concerned that I might have been in direct contact with Aviva, and in particular in respect of the approach to interest. I would also like to reassure Mr D this is not the case. Aviva wrote to the investigator prior to the case being allocated to me and acknowledged they knew what our usual approach to interest was. I have not been in contact with either party in this matter individually.

In general terms Mr D feels I have not provided sufficient reasoning and he thinks I have taken into account matters he thinks were already addressed. He also stresses he believes he ought to be provided with full answers to queries he raised with Aviva.

Overall Mr D feels he provided proof Aviva gave undertakings on a timetable that they failed to perform to. He says the information he received from Aviva was unambiguous in respect of what they would do and when. In addition Mr D believes that where a standard timescale is given, it ought to be adhered to.

Mr D has made further submissions, including about the date to be used for the valuation of his fund. He has also expanded on his thinking on why he believes that Aviva ought to have been expected to complete work more quickly than they did or than I have considered reasonable. Mr D referred to his experience with another provider.

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.

I have not changed my thinking from that set out in my provisional decision. I am upholding Mr D's complaint as Aviva did not provide the service they ought to have done; and although they accepted this when replying to Mr D's complaint, their approach to redress was not quite what I think it ought to have been.

I consider the main thrust of Aviva's original offer was reasonable. Aviva's approach to assessing whether Mr D had suffered a loss (using the date they suggested) was fair and reasonable, and their offer of £250 to represent the distress and inconvenience occasioned to Mr D was also fair. However Aviva didn't offer to apply 8% interest simple to any loss sum identified which I think they ought to have done.

In responding to my provisional decision Mr D let me know he felt it would be productive to have a face to face meeting and said this was so that we could "*air views*". He suggested in the alternative we could speak on the telephone. I hope Mr D will not see this as any discourtesy, but I didn't consider this was necessary or appropriate in the context of this complaint.

This service provides an informal dispute resolution service as an alternative to the courts. It is my role to consider everything provided to reach my decision. It would be unusual for me to consider it necessary to obtain additional evidence by speaking to parties directly. When I issued my provisional decision this was the extent to which I would share my view on a case in advance of reaching a final decision. When I make my decision, I provide my reasons for reaching my decision. This is done in writing. It is ultimately for me to decide what I consider relevant and persuasive in reaching my decision.

I am comfortable I have been provided with the material required to enable me to reach a fair and informed decision. I am also comfortable Mr D has been provided with sufficient opportunity to provide evidence and submissions. I consider I understand his view on this complaint. I have reflected carefully on everything he has provided. But I don't consider this to be a complex complaint. And whilst I am sorry my provisional decision disappointed Mr D and caused him surprise and distress, I haven't been persuaded to change my thinking.

As I have set out, this service is an informal alternative to the courts. If Mr D chooses not to accept my decision he will not be bound by my decision and can pursue any claim he wishes elsewhere.

Mr D feels I did not provide sufficient reasoning in my provisional decision. I am sorry Mr D feels this way. Ultimately it is for me to reflect on what I include in my decision. I am not required to set out every point or issues that has been raised for example. I also appreciate that when it comes to making a decision about what is and is not reasonable there may be differences of opinion. For example here Mr D strongly feels that where a business provides an undertaking or service standard in respect of an action being completed within a specified time frame, this ought to be met.

Here, there were failures to perform within certain timeframes, and also within time frames Mr D thinks ought to have been possible. There were failures around the service provided to Mr D too. My role has been to look at what happened, any impact on Mr D and here to decide whether Aviva's offer to redress everything was fair in all of the circumstances.

Whilst I accept certain activities could have been performed and completed differently and sometimes more quickly, and that Mr D believed they would be and should be, that doesn't mean I think the time taken was unreasonable.

I've seen what Mr D has told me of his professional background and experience. Mr D rightly refers to having clearly spent time putting together his most recent submission and the thought he has put into it. I can assure him I have given it, and all he has said, my full consideration.

There has been substantial communication between Mr D and Aviva as well as the investigator since Mr D first complained. Mr D has raised a number of questions, requests, and submissions. Aviva and the investigator have provided further material and information, including on how pensions work, and I hope Mr D found value in what was provided. I am not summarizing everything that has been said, and I hope the parties will understand I mean no discourtesy by this. I would like to assure all parties I have considered everything that has been provided to this service with care and attention. I have focussed for on what I consider to be the crux of the complaint.

Ultimately, I've needed to decide if Aviva's offer was reasonable and fair in all of the circumstances. In other words whether Aviva offered enough or not, to reflect what went wrong, or the things that ought to have been done differently, when Mr D came to take benefits in 2020.

How and when the pack was sent and Aviva's offer

Aviva were required to send Mr D a retirement options pack when he came to take his benefits. I appreciate Mr D was worried when seeing the impact the market fluctuations were having on his pension fund, and this was unfortunately a position shared by many. It would not have been reasonable to have expected Mr D's request for a retirement options pack to have been prioritised above others, based on this information alone. I also don't consider it would have been unreasonable in the circumstances for it to have taken a week for a pack to have been delivered to Mr D following his request.

Mr D doesn't think I ought to have considered the difference between the values on 10 and 12 March 2020, as part of my considerations, as he had already been reimbursed for that loss by Aviva. But I don't agree, I think this issue is relevant to the totality of his complaint and whether he was treated fairly.

At the centre of Mr D's complaint is his dis-satisfaction that he did not receive his pack (not that he necessarily places any value in this pack) and thus didn't receive his benefits at the value he thinks it ought to have been nor as quickly as he thinks he ought to have done. As such he says he suffered a loss.

Aviva agreed in the particular circumstances here, that Mr D did not get his pack and thus his benefits on the date he ought to have done. Aviva provided the date they thought ought to be reasonably used for valuation and for a loss assessment (10 March 2020). Mr D didn't agree this was right. Mr D thinks he ought to have had the valuation calculated to an earlier date and he thinks everything took too long.

So I consider the issues of whether Aviva were right to use 10 March 2020 as the date for valuation and loss assessment, and whether the redress they have already paid was enough, to be at the centre of this complaint.

Aviva accept they made an error on 27 February 2020 by not properly setting up and progressing Mr D's request for a pack. Aviva also accept their error on 4 March 2020, for sending the pack by post and not email. If things had been done as they ought to have been, and using Aviva's own intended turnaround times, it's clear Mr D ought to have received his pack before 9 March 2020, which is when he did receive it.

There is no precise date on which it can reasonably be said Mr D ought to have received his pack. It was not unreasonable for Aviva to use 5 March 2020, for the date on which Mr D ought to have received his pack by. This being the fifth working day (inclusive) from Mr D's request on 27 February 2020.

I don't consider it was unreasonable for Aviva to have offered to use three working days from 5 March 2020 receipt of the pack, for the date for their loss calculation. This was the period of time it took from when Mr D actually received his pack until when Aviva were able to progress the claim. As such I consider this a fair approach. In general terms I would consider this to be an efficient turnaround time, and faster than might still be considered reasonable.

I understand Mr D doesn't agree. Mr D thinks Aviva are wrong to have used a three working day turnaround in their calculation, he thinks it ought to have been two working days.

Mr D says his claim ought to have been able to be progressed on 11 March 2020 when he returned his claim information, and not 12 March 2020. He thinks that Aviva's administration and checks and progression could and should have been done the same day as it was received. Mr D also submits his expectations were based on the information Aviva gave him. He thinks his fund value ought to have been frozen on the date he returned his information for claim to Aviva (11 March 2020). This being two working days after he received the pack. I understand he draws the analogy with an instruction to sell investments and his experience of trading.

Whilst I accept Aviva may have been able to complete the next stage of their work the same day that Mr D's information was received, that does not make it unreasonable or excessive for Aviva to have been in a position to progress the claim on 12 March 2020. I take into account for example the fact that it would not be reasonable to expect Aviva to have identified and prioritised Mr D's request above others as soon as they received it and the possibility of reasonable slippage.

I accept Mr D wasn't always given the most accurate information. But this doesn't mean however that Mr D's fund value ought to have been frozen, or his claim progressed on 11 March 2020 or on a two working day turnaround rather than a three working day turnaround. Importantly here, it doesn't mean it was unreasonable or excessive for Aviva to have used a three day turnaround from when the pack ought to have been received by Mr D, to assess when they ought to have been in a position to have progressed his claim (and thus his fund value to have been assessed for the purposes of any loss).

I consider three working days is not an unreasonable period to be used. I don't consider it excessive when looking at what I'd usually expect in such circumstances. I have taken what Mr D was told on different dates into account when considering what Aviva offered to make things right (including the loss calculation and an award for distress and inconvenience).

Aviva's offer to Mr D to calculate any loss due to Mr D, on the basis of a valuation date of 10 March 2020, instead of 12 March (as was the actual date) was a fair and reasonable offer, taking account of all the circumstances.

Putting things right

What Aviva need to do

A loss was identified as having been suffered by Mr D, and it's agreed Aviva have paid a sum to reflect this.

But Aviva did not pay interest at 8% simple a year on the loss figure calculated as they ought to have done here. So there remains a sum to be paid to Mr D in line with what I set out in my provisional decision. Aviva are required to pay a sum to Mr D representing the sum he ought to have received at the time in 2020 had Aviva applied interest at 8% simple a year at the time of loss calculation, and interest (8% simple a year) will need to be paid on such sums up to the date of settlement. Aviva have acknowledged they understand this.

Award for distress and inconvenience

I have considered everything that has been said about this and how Mr D felt. Having taken everything into account, and considering all the circumstances, I continue to think Aviva's offer of £250 was sufficient. It isn't clear to me if the offered sum of £250 was paid to Mr D already or not. If it has not been paid, it must be paid to Mr D within 28 days of Aviva being informed of the acceptance of my decision.

There was a limited period of delay here and Aviva immediately accepted responsibility appropriately for where they hadn't provided the service they ought to have done and undertook to make good any loss that might reasonably be identified. Nothing has been provided that suggests to me the short period of delay before Mr D received his benefits had a significant impact on Mr D, such as missed payments that were due to third parties. Mr D felt frustrated and he was clearly worried about his pension losing value. However some of these concerns aren't ultimately attributable to Aviva and what they could have done better here.

I've seen the suggestion that the offer of £250 doesn't take account of everything that went wrong and the suggestion it was intended to cover only parts of the failures and delays. I think ultimately Aviva intended this offer to cover everything that happened. There was repeated contact between Mr D and Aviva after he first complained, and Aviva had time and opportunity to review and extend their offer if they felt it did not represent all the circumstances of this complaint.

Overall I consider Aviva's offer of £250 to have been at the upper end of the type of award I'd expect to see in similar circumstances, and as such their offer was enough. There is more information about our approach to awards for distress and inconvenience available on our website.

Mr D has asked me to take into account that after he complained and the loss calculation and sum was paid, he has spent time asking Aviva further questions and he has been dissatisfied with the responses he received. In general terms this service is unable to consider complaints about complaints handling. I've seen that Aviva did provide Mr D with additional information, and I have also seen Mr D provided additional questions, he indicated his dissatisfaction with the explanations and made further submissions. I have seen a stage was reached in September 2020 when Aviva told Mr D they weren't willing to review his complaint again and they didn't think they could add anything further to explain their position.

I haven't been persuaded I ought to increase the award for distress and inconvenience here or that I ought to require Aviva to do anything further beyond that contained in this decision.

My final decision

For the reasons given I am upholding Mr D's complaint against Aviva Life & Pensions UK Limited. Aviva are required to pay the outstanding sum to reflect the interest that ought to have been paid on the loss sum in 2020 to Mr D. The outstanding sum from 2020, will need to have interest applied at 8% simple a year until the date of settlement.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 28 October 2022.

Louise Wilson
Ombudsman