

The complaint

Mr R complains about the time it took Aviva Life & Pensions UK Limited to provide him with information about his investment, which led to the value of the investment decreasing.

What happened

On 25 February 2022, Mr R called Aviva to find out the amount of the chargeable gain and tax liability on his bonds, with a view to surrendering them. He was concerned about the impact that the war in Ukraine would have on the investment markets. The person Mr R spoke to was unable to give him the information over the phone, but said that they would find out and call him back.

On 9 March 2022 as he hadn't yet received anything, he called again and raised a complaint about the service provided so far. The information was sent to him by email on 11 March. On 16 March, Aviva replied to the complaint and sent him a cheque for £100 to compensate him for the delay in sending the information about the chargeable gain. Mr R didn't agree this addressed his concerns, as his investment had decreased by around 10% and he wanted Aviva to make up for his losses. So, he returned the cheque for £100, and later brought his complaint to our service. He explained he hadn't yet surrendered the investment because he thought that would impact the complaint.

An investigator at our service looked into the complaint and found that the offer Aviva had made was fair. She found Aviva caused a delay of a week in sending the information, and that this caused distress and inconvenience. She felt that Mr R wouldn't have sold the investments on 25 February 2022, so wouldn't be entitled to the value of it on that day. She also found that he could have mitigated his perceived losses by surrendering the investments. At the time of writing her opinion in August 2022, she found that the value of his investments was higher than it was in February and so Mr R could surrender at that time, without suffering any loss.

Mr R didn't agree – he said that he wanted and intended to cash in the investment in February, but needed the information from Aviva in order to do so. He said that he felt the delay caused by Aviva was longer than the investigator had calculated – he remembers being told on 25 February that he would receive this information by phone within 24 hours. So, he felt Aviva should pay him the value of the bond as at 26 or 27 February. The investigator wasn't persuaded to change her mind, so the complaint has been passed to me for a final decision.

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've considered whether Aviva caused delays in sending Mr R the information he requested and if so, whether that delay caused him any financial loss, distress or inconvenience. Having done so, I agree with the conclusion reached by the investigator for largely the same reasons.

I've listened to the call between Mr R and Aviva from 25 February 2022 and during it Mr R requested information about the tax liability that would arise if he were to surrender his bonds. The call handler at Aviva explained he wasn't able to provide that information and would have to request it and once he had the information, he would call Mr R back to discuss it. He didn't give a timeframe for the call back. The correct process wasn't then followed – the right department didn't receive a request for the information. Aviva agrees this was a mistake.

It was also incorrect for the call handler to say that he would receive the information and call Mr R back to discuss it. Aviva has explained that the normal process is that the relevant department sends this out to customers in writing, via post, which would take up to five working days plus postage time. This isn't unusual – calculating chargeable gains and the amount of tax treated as paid on a bond, is not something all staff at Aviva would reasonably be expected to do, as it requires expertise. So, I'm satisfied it's not unreasonable for this question not to have been answered in the call itself. However, I would expect Aviva to have explained this to Mr R in the call and to have let him know roughly how long the information would take to arrive.

Based on the above, had everything gone as it should, Mr R likely ought to have received the information about the chargeable gain on his investments at some point during the week beginning 7 March 2022. As it was his plan to wait for that information prior to surrendering his investment, I don't think he would have received the value of the investment in February. I'm persuaded the earliest he likely would have surrendered it would have been some point after 7 March.

Overall, I agree that Aviva has caused delays to Mr R receiving the information of around a week. I'm also persuaded that Mr R's original intent was to sell his investment, after receiving the information on the chargeable gain. I've gone on to consider whether it's fair and reasonable to say that Aviva is the cause of the losses that Mr R has claimed for. Normally, my starting point would be to look at the difference between the price Mr R should have achieved and the one he did achieve. However, that approach wouldn't be fair here, and I'll explain why.

When Mr R received the information – a few days after it was posted to him on 11 March – he didn't surrender the investments and so didn't crystallise any loss. Mr R explained that he didn't want to jeopardise the complaint in any way – or make Aviva think that he accepted that they weren't at fault for the delay causing the value to drop. He's not explained why he thought that would be the impact of surrendering the investments. I have to say that it's not correct – surrendering an investment wouldn't have prevented him from pursuing a complaint. I've not seen any evidence that Aviva are at fault for this impression – for instance their response to his complaint didn't say that accepting the £100 offered, or surrendering the investments, would mean he couldn't complain further.

I've also noted that in August the investigator let Mr R know that he could have surrendered the investments without being prevented from pursuing the complaint. She also pointed out that the unit price for the fund Mr R was invested in, was higher than it had been in February. So, if he had surrendered the investments in August 2022, he wouldn't have made a loss.

I've considered the unit price of the investment in the week beginning 7 March 2022, as that's when I think Mr R would have surrendered the investments had everything gone as it should have. The highest unit price that week was 13.18 and there have been several times when Mr R could have achieved a higher value than that over the months since. That includes after the investigator let him know he could surrender the investment without impacting the complaint.

I appreciate that on 9 March 2022 when he made his complaint, Mr R did perceive a loss to his investment compared with the value given in February, and this would naturally have been disappointing. However I don't think Aviva are the main cause of this perceived loss, nor do I think it would be fair to say that Aviva ought to pay the value Mr R would have received, had the bonds been surrendered in February or March 2022. This is because Mr R has had the opportunity to surrender the investment at a higher value since then and therefore mitigate any perceived losses.

Mr R has chosen not to surrender the investment, despite having the opportunity, and I'm satisfied that it wouldn't be fair and reasonable to hold Aviva responsible for his perceived loss as a result.

That being said, I am persuaded that Aviva caused unnecessary delays and gave Mr R unclear and incorrect information. I think the offer of £100 is fair and reasonable to make up for the inconvenience and uncertainty caused by those errors.

My final decision

Aviva Life & Pensions UK Limited has already made an offer to pay £100 to settle the complaint and I think this offer is fair in all the circumstances.

So, my decision is that Aviva Life & Pensions UK Limited should pay Mr R £100.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 12 December 2022.

Katie Haywood
Ombudsman