

The complaint

Mr R complains about Aviva Life & Pensions UK Limited's poor service and delays in transferring his pension to another provider. He believes he's suffered a financial loss as a result of Aviva's actions.

Although some of the contact with Aviva was made by Mr R's independent financial adviser (IFA) at the time, for ease of reading, I'll refer to it mostly being made by Mr R directly.

What happened

Mr R was a member of an Executive Pension Plan (EPP) held with Aviva. Along with a former colleague, he decided to transfer his pension to a self-invested personal pension (SIPP) with a new provider.

Mr R asked Aviva to calculate his plan's transfer value. Aviva confirmed on 11 January 2020 that the value of Mr R's fund as at 2 January 2020 was £359,389.88. It said the total fund value was £515,042.00 once a terminal bonus of £155,652.12 was added. It explained that the bonus wasn't guaranteed and fund values could go up or down.

Mr R said he completed the necessary paperwork to enable Aviva to transfer his pension on or around 30 March 2020. It seems that Aviva received the application around 3 April 2020 (it was logged on its system around 6 April 2020). Mr R then signed some forms for the receiving scheme around 6 April 2020 and a trustee declaration for Aviva on 23 April 2020. Aviva appears to have received the declaration the following day.

Mr R called Aviva on 7 May 2020 to chase progress on the transfer. It said it received the trustee declaration form on 27 April 2020 (as indicated above, elsewhere it suggested it received it on 24 April 2020) and that it would take about ten working days from that point to complete the transfer and send funds to the new provider. Aviva thought it would potentially take three to five days for the payment to clear.

Mr R later complained to Aviva about delays and poor communication.

Aviva sent a complaint response dated 29 May 2020. It accepted there had been mistakes and poor communication on its part. For instance, it accepted that it should have checked the trustee declaration on receipt and have been able to issue an update or payment within ten working days. As it still hadn't sent a payment to the new provider by that point, it said it would work out how to put right any financial loss that Mr R might have suffered once the payment had been sent. In the meantime, it awarded Mr R £100 compensation for the inconvenience caused.

Aviva sent a payment of £484,795.64 to the new pension provider on 4 June 2020. Information from the new provider suggested that the funds were reinvested over a series of days from about 8 June 2020 onwards.

Mr R got in touch with Aviva shortly after to query the difference in the amount

transferred compared to the valuation given in January 2020.

Aviva explained that it increased its bonus rates on 1 January 2020 before giving Mr R its quote as at 2 January 2020. However, its final bonus rates decreased before it made the payment. Aviva suggested that Mr R might want to refer his complaint to this Service if he wasn't happy with the response.

Aviva wrote to the new provider in August 2020. It accepted it delayed in transferring Mr R's pension funds and thought that might have had a detrimental effect on their value. It asked the new provider for information about the investments subsequently made, so it could work out whether there had been a financial loss. It looks like the new provider sent that information to Aviva around 21 August 2020.

In late September 2020, Aviva said it was in the process of completing a loss assessment. But as Mr R's plan was invested in a number of different funds, each fund had to be calculated individually before it could provide the outcome of its loss assessment.

Mr R wrote to Aviva "*out of despair*" on 11 November 2020. He described a number of issues with its service and said he had no alternative but to refer his complaint to this Service. We received Mr R's complaint shortly after.

One of our investigators looked into the complaint and found that Aviva hadn't acted fairly. Whilst the investigator was satisfied that Aviva told Mr R the fund value wasn't guaranteed, he didn't think it had done enough to explain why Mr R's valuation wasn't completed at the same time as his former colleague's, considering the requests were submitted at the same time by the same IFA. He felt Aviva needed to explain this. The investigator recommended that Aviva complete a loss calculation and pay Mr R 8% interest on any losses. He also recommended it pay Mr R an additional £350 compensation on top of £100 it had already offered. Aviva agreed to pay the additional £350 compensation and provided further information.

Aviva said, amongst other things, that whilst Mr R's transfer value request might have been submitted at the same time as a former colleague's, they were logged as separate tasks under separate policies. It said under normal circumstances it would expect quotations to be provided within ten working days – meaning they could be issued at any point within those ten days.

Aviva sent Mr R the outcome of its loss assessment in late October 2021. It estimated that it should have paid the funds to Mr R's new provider on 11 May 2020, rather than 4 June 2020. The upshot of that was the number of units bought was lower as a result of the delay. When working out the impact that had on any investment performance, Aviva said it had mirrored what actually happened - in terms of how long it took to reinvest in new funds and using actual fund performance data. Based on that comparison, Aviva worked out that Mr R was due a payment of £7,359.31. Mr R didn't agree with Aviva's calculation.

Our investigator issued a follow up assessment having received additional information from Aviva. He noted Aviva's explanation about why it had completed the transfer valuation on a different day to Mr R's former colleague's. And he was satisfied that it had completed Mr R's transfer valuation within the service standard it aims to. The investigator still felt though that Aviva took too long to complete the transfer process and subsequent loss calculation. Whilst he said we couldn't be certain when the transfer would have happened, he thought it probably would have been around 9 April 2020. So, he

recommended that Aviva calculate any compensation due by comparing the notional value of Mr R's fund on 9 April 2020 with what it was worth on 4 June 2020. He said that if the notional value was higher, the difference was the loss that Mr R had suffered. The investigator set out how that loss should be put right and again felt that an additional compensation payment of £350 was warranted (it looks like the payment might already have been made by the time he issued his follow up assessment).

Mr R accepted the investigator's assessment, but Aviva didn't. It said that when completing its loss assessment, it had taken account of when it had initially received the transfer request, and the missing information it had asked for. From that it confirmed a 'liability date' of 24 April 2020. It said it was satisfied it had dealt with things such as outstanding information requests within normal service standards and should, therefore, have issued payment on 11 May 2020. It said the investments were correct because it had mirrored how long it took the receiving scheme to reinvest the funds once payment was received.

As no agreement could be reached, the complaint was referred to an Ombudsman. It's been passed to me to decide.

My provisional decision

I sent Mr R and Aviva my provisional decision on 7 March 2023. I've included the relevant extracts below.

"I'll start by addressing the issue to do with different terminal bonuses being applied. I can appreciate why Mr R might have thought they'd be the same (and any subsequent reductions should therefore be comparable) especially when the transfer valuations were requested together by the same financial adviser.

But, Mr R and his former colleague each had their own plan with a separate number. So, that meant that Aviva had to calculate the transfer values individually, in the same way as it would do for any other customer who wasn't known to Mr R. And that wouldn't necessarily be done on the same day, despite how and when the transfer valuation requests were submitted.

Aviva has explained that the difference in values was as a result of different bonus rates being applied and I've seen a brief timeline that it put together to support its explanation. This shows that bonus rates increased on 1 January 2020, just before Aviva calculated the transfer value of Mr R's plan as at 2 January 2020. But they reduced again in mid-April 2020 before Aviva finalised the transfer process and locked in the value as at the 'liability date'. And I think that accounts for why different rates applied and the value of Mr R's plan reduced compared to what was initially quoted. I can appreciate Mr R's disappointment. But I think Aviva's explanation is reasonable in the circumstances and reflects my understanding of what can often happen in these kinds of situations.

Turning now to the delays in dealing with the transfer request. I don't think there's any dispute that the transfer process and loss calculation took far longer than Mr R could reasonably have expected. But there is a dispute about whether Aviva's calculations fairly recognise the extent of its delays and the true loss that Mr R's pension fund may have suffered.

After very careful consideration, I'm intending to reach a different outcome to our investigator about when the transfer would likely have taken place. On balance, I agree with Aviva that it should have been in a position to complete the process by 11 May 2020, rather than 4 June 2020. I'll explain how I've come to that conclusion.

Mr R's recollection is that he filled in various forms around 30 March 2020 and Aviva says it received them on or around 3 April 2020 and logged the request on its system around 6 April 2020. It appears that Mr R also filled in a form for the receiving scheme around 6 April 2020. Given the normal sequence of events, I'm satisfied those dates tie-in.

I can see that Aviva requested the completion of a trustee declaration sometime around 11 April 2020. As I understand things, the process couldn't be completed until that information had been received. That doesn't seem unusual or unreasonable. Mr R signed the declaration on 23 April 2020 and Aviva confirms receiving it by email on 24 April 2020. That's how it arrived at its 'liability date' of 24 April 2020.

I asked Aviva about its normal service standards for completing a pension transfer. In response it said it doesn't have any published standards of its own and that these can vary from company to company. It's pointed out that in other cases where its service standards have been questioned, this Service has referred to The Association of British Insurers (ABI) statement of good practice 2006.

I'm familiar with that statement. Under the heading "Timing and Communication" it says:

"Any paperwork or other requests relating to pension transfers that arrive at a scheme's office should generally be completed within 10 working days. If this is not possible, wherever practicable the scheme should contact the consumer or their adviser to state when they expect to complete the item of work".

I've taken Aviva's response to mean that it aims to complete activity such as pension transfer requests within ten working days, so as to comply with the ABI standard referred to above. I think it's reasonable for Aviva to mention the standard as I consider that a good gauge of whether Aviva acted in a timely way. Especially as it's confirmed it has no service standards of its own for pension transfers. And whilst Aviva clearly didn't complete the transfer process within ten working days in Mr R's case, I'm satisfied its responses demonstrate that it understands it's a reasonable standard to apply - especially when it comes to awarding redress. In any event, as I've already said, I agree with Aviva that the process should have been completed by 11 May 2020.

But I don't agree with the basis for Aviva's actual loss calculation. I'll explain why.

I can see from the information the receiving scheme provided that, having received the funds around 4 June 2020, reinvestment took place over a series of days between 8 June 2020 and 12 June 2020. But, apparently applying the same logic, Aviva's loss calculation is based on reinvestment having taken place from 28 May 2020 onwards, even though it accepted that funds should have been transferred on 11 May 2020.

I asked Aviva about this as, on the face of it, there's a disparity. In short, it appears from the response Aviva gave me that it's added additional clearance time on top of each of the reinvestments. It's basis for doing so seems to be that under normal circumstances it would have sent the funds to the new provider by BACS. And that would have been subject to a three-day clearance period. That accords with my understanding. But given the delays in this case, it sent the funds by telegraphic transfer (TT) to speed things up. That seems reasonable. However, Aviva has suggested that in order to try to put Mr R back into the position he would have been in had it not been for the delays, it's applied an extra three days processing time to each of the reinvestment transactions in order to complete its loss calculation.

But I don't think that's fair. I say that largely because that method effectively assumes that

the receiving scheme didn't receive the funds in one go. I've seen no suggestion that's the case. So, I think it's fair to apply one three-day BACS clearance period to the funds. And by my calculations, as I think Aviva was in a position to send the funds on or around 11 May 2020, I think the receiving scheme was in a position to start reinvesting them after three working days – so by 15 May 2020. It follows that's the date from which I think Aviva needs to apply the actual time it took the receiving scheme to reinvest the funds in order to arrive at a fair and reasonable loss calculation”.

Responses to my provisional decision

After I'd sent my provisional decision, Aviva said there was a mistake in the information it previously gave me. Whilst it initially said it should have sent funds by 11 May 2020, the correct date should have been 20 May 2020 (it said it actually used that date in its loss calculation). That's because it received a scheme change of address form on 6 May 2020, which it had to process. According to Aviva, it had ten working days in which to do that. So, it said that had a bearing on when it could complete its action. It added that it was satisfied the reinvestment dates it previously quoted were correct. Aviva didn't provide any comments in respect of the rest of my provisional decision.

Mr R said he had nothing further to add.

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 thought carefully about whether the clarification Aviva has given me causes me to change what I said in my provisional decision. It doesn't. I'll explain why.

The basis upon which Aviva says now that the transfer should have been completed by 20 May 2020 (not 11 May 2020) is that it received a scheme change of address form on 6 May 2020, which it had to process. According to Aviva, it had 10 working days in which to do that.

The 10 working days that Aviva is referring to stems from what it says in the Association of British Insurers (ABI) statement of good practice 2006.

Under a heading “*Timing and Communication*” it says:

“Any paperwork or other requests relating to pension transfers that arrive at a scheme's office should generally be completed within 10 working days. If this is not possible, wherever practicable the scheme should contact the consumer or their adviser to state when they expect to complete the item of work”.

Aviva has already told me that it tries to adhere to that standard as far as possible. As it doesn't have a specific service standard of its own, I think that's reasonable.

However, apart from the fact that Aviva wasn't able to meet the standard in Mr R's case, I don't think it's reasonable for it to say now that it had a further ten working days to complete the change of address process.

I say that because, as far as I can tell, that process was a fairly straightforward administrative task. Also, my interpretation of the ABI statement is that ten working days is to *include* processing time for administrative tasks such as a change of address - especially given the reference to “*paperwork or other requests relating to pension*

transfers". In other words, I don't think it envisaged a further ten-day period being applied, especially not for a fairly simple task. So, once it received the trustee declaration on 24 April 2020, I think Aviva should have been able to complete the process within ten working days. Ten working days of Aviva receiving the trustee declaration was around 11 May 2020.

For the reasons I've set out, I don't think Aviva acted fairly or reasonably here. I see no reason why it couldn't have updated the scheme address within a couple of days of receiving it, so by 8 May 2020, which would still have been within an overall ten working day processing window from when it received the signed trustee declaration on or around 24 April 2020. It follows that I think Aviva's actions had an impact on when it sent a payment to the new provider and when funds could reasonably be reinvested. Based on the evidence I've seen and for the reasons I've set out, I think Aviva should have completed the transfer by 11 May 2020 using the fund value as at the 'liability date' of 24 April 2020.

In addition, for the reasons I set out in my provisional decision, I still don't agree with the basis for Aviva's actual loss calculation. And nothing Aviva has said would cause me to change my mind on that front. So, I've set out below what Aviva needs to do now to put things right.

Putting things right

Aviva Life & Pensions UK Limited should now take the following action:

Revise its loss calculation based on the following parameters:

Assume that £484,795.64 was sent to the receiving scheme on 11 May 2020 rather than on 4 June 2020. Allowing for three working days BACS clearance time, I think the receiving scheme would have been able to start reinvesting the funds as early as 15 May 2020. So, based on how long it took for reinvestments to take place once the receiving scheme actually received the funds on 4 June 2020, Aviva should mirror the reinvestment periods as I've set out below in the 'new' column. So, for instance, tranche one took three working days to be reinvested (assuming 4 June 2020 is day one) once the receiving scheme received the funds. Assuming that funds would have cleared on 15 May 2020 (meaning it's also treated as day one), I think the first tranche of reinvestments would have happened on or around 19 May 2020 (and so on).

Tranche	Old	Number of days	New
1	8 June 2020	3 working days	19 May 2020
2	9 June 2020	4 working days	20 May 2020
3	10 June 2020	5 working days	21 May 2020
4	11 June 2020	6 working days	22 May 2020
5	12 June 2020	7 working days	26 May 2020 (allowing for a Bank Holiday)

- Aviva should then compare the notional value (new) with the actual value (old). If the actual value (old) is lower, then Mr R has suffered a loss equal to the difference between the two amounts. When putting right that loss, Aviva also needs to take account of the payment it offered Mr R of £7,359.31 (assuming that's now been paid) in order to work out the residual amount that's due to Mr R.
- If payment of the above compensation into Mr R's pension plan isn't possible, or has any other tax or allowance implications, it should be paid directly to Mr R as a lump sum after making a notional deduction to allow for income tax that would otherwise have been paid. Typically, 25% of the loss could have been taken as tax-free cash and 75% would have been taxed according to his likely income tax rate in retirement-presumed to be 20%. So, making a notional deduction of 15% overall from the loss adequately reflects this.
- On top of that, Aviva needs to work out whether Mr R's fund has suffered further investment losses and pay those in too (subject to the stipulations I set out earlier). From what I can gather, Aviva has completed its loss calculation up to and including 15 October 2021 when it did the work. But this calculation needs to be refreshed to account for any further losses up to the date of my final decision.
- The compensation amount must where possible be paid to Mr R within 28 days of the date Aviva receives notification of his acceptance of my final decision. Further interest must be added to the compensation amount at the rate of 8% per year simple from the date of my final decision to the date of settlement for any time, in excess of 28 days, that it takes Aviva to pay Mr R.
- There's no doubt that this matter has been a cause of great concern to Mr R. And whilst I do appreciate that Aviva had to complete a fairly complex loss calculation, I still think things took too long overall. I understand that Aviva has already paid the additional £350 compensation that our investigator recommended (making £450 when factoring in the £100 it had already paid). I'm satisfied that fairly recognises the impact of Aviva's delays and service issues.
- Aviva should send Mr R its revised calculation in a clear and easy to understand format.

My final decision

I uphold Mr R's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 21 April 2023.

Amanda Scott
Ombudsman