

## The complaint

Miss F complains that Aviva Life & Pensions UK Limited (Aviva) delayed the payment of her pension benefits during which time the value of her fund fell. She would like compensation for the losses suffered.

## What happened

Miss F lives outside the UK. She wrote to Aviva on 7 April 2022 requesting to take the benefits from her personal pension plan as a one-off lump sum. Aviva sent an illustration for this option dated 9 April 2022 and a retirement options pack (ROP) dated 22 April 2022. The illustration said the value of the plan, which wasn't guaranteed, was £14,794.69. The valuation on the ROP was slightly lower at £14,744.93.

Miss F completed the application form sent with the illustration dated 9 April 2022 and posted it to Aviva on 19 May 2022. She used recorded delivery due to problems sending and receiving normal post in her country of residence. Miss F says she didn't hear from Aviva, so she emailed it on 26 June 2022 for an update. Without response she sent a copy of the completed application form by recorded delivery on 28 June 2022. Miss F says she then received a letter from Aviva on 5 July 2022 which was dated 2 June 2022. The letter confirmed her instructions about her benefits but said it required a bank statement in order to verify her bank details before payment could be made. It said her benefits would be paid within ten working days of receiving all necessary details. Miss F sent this information the same day and she raised a complaint about the delay with Aviva.

Miss F's benefits were paid on 25 July 2022. She says the value had fallen to £14,119.82. Aviva sent her a final response letter saying her complaint about delays had been resolved to her satisfaction. But it had opened another complaint about investment performance. It issued a further final response which didn't uphold the complaint about investment performance either.

Miss F referred her complaint to our service and our investigator looked into it, but he didn't uphold it.

Initially our investigator thought that Aviva had caused a delay in not telling Miss F it needed to verify her bank account details when it sent her the ROP dated 22 April 2022. He said it was fair that Aviva pay Miss F £150 compensation for this. But he said Aviva had paid her benefits in line with its 10-day working timeframe once she had sent confirmation of her bank account to it. So, he couldn't hold it responsible for delays in its letter of 2 June 2022 being received. He said Aviva wasn't responsible for the fall in the value of the investment between 22 April and 25 July 2022 as Miss F had invested in funds that were stock market related.

Miss F accepted our investigators view but Aviva disagreed. It said the ROP dated 22 April 2022 did advise Miss F her bank account details would need to be confirmed as she wasn't UK resident. It also said it had tried to call Miss F on 30 May 2022 and again after she emailed it on 26 June 2022, but her number just rang out with no option to leave a voicemail. Our investigator said in the light of this information he thought Aviva had been proactive as

Miss F might have been mindful that it might contact her about her application. So, it hadn't treated Miss F unfairly, and he couldn't uphold the complaint.

Miss F didn't agree. She said having checked her call records. there were missed calls but there was no number to return the call. And as it had asked for her email address, why hadn't it emailed her when it didn't hear back from her, because it had emailed her once she complained?

As Miss F doesn't agree it has come to me to decide.

### **My provisional decision**

I issued my provision decision on 17 May 2023, I explained the reasons why I was planning to uphold the complaint. I said:

*I've considered all the available evidence and arguments to decide (provisionally) what's fair and reasonable in the circumstances of this complaint. Having done so, I'm planning to uphold the complaint.*

*I think Aviva was responsible for a delay in paying Miss F's benefits. I think it made an error by initially incorrectly telling her it had already verified her bank details, and nothing further was required from her. Once she returned documents to draw her benefits it presumably noticed its error and wrote to her. But, when Miss F didn't promptly respond, I think it should have done more than it did to resolve the issue.*

*When Miss F contacted Aviva on 7 April 2022, she specifically requested her benefits be paid in a certain way. It prepared an illustration and application form reflecting that request dated 9 April 2022. For reasons which aren't clear it appears it subsequently sent her the ROP dated 22 April 2022. Pension providers normally issue ROPs in advance of benefits being taken. These summarise the different options available and warn of possible scams and so on. Aviva's ROP then asked Miss F to indicate how she wanted the benefits to be paid to enable a specific illustration to be prepared. So, the normal process would be that the ROP would precede the illustration. It seems that didn't happen in this case.*

*I asked Aviva how and when these documents were sent, but it hasn't responded.*

*On the evidence available Aviva's arguments have focused on the ROP document rather than the earlier illustration, which I think is wrong. Even if the two documents were sent at the same time, they contained conflicting information about what was needed to verify Miss F's bank details. Aviva has argued the ROP states that additional procedures will be required to verify the bank details of non-UK residents. And as a non-UK resident Miss F should have been alert to this. On page 13 of 18 it says:*

***"Get your money with less effort***

*If you are a UK-based customer, please provide your bank details below.*

*This allows us to complete an electronic bank account verification check. If successful, you will not need to send us any further evidence of your bank account.*

### ***What is an electronic identity check?***

*Electronic identity checks can only be carried out on UK customers, and are done by a third party.*

**What happens if the electronic identity check isn't successful?**

*If the electronic check isn't successful, we will need further evidence of your bank account and this will be confirmed in your personalised quote. If we don't ask for bank identification in your quote, this means the electronic check has been successful."*

So, the ROP doesn't say what information a "non-UK based customer" would need to provide and says that the illustration will confirm whether any further verification information is required.

But the illustration provided to Miss F dated 9 April 2022 says the following:

**"What we need to pay you your money**

*UK Money Laundering rules require us to perform checks on your identity before we can carry out your request. This is to help prevent money laundering and protect you from fraud.*

*The Financial Conduct Authority (FCA) requires all regulated firms to follow the same guidelines. If you're unable to provide the documents we need then please call us.*

**You don't need to send us any identification**

*We have used an electronic identity check to verify the bank account you provided in the forms you sent us previously.*

*Miss F did have a UK bank account and wanted her benefits paying into that and perhaps this caused some confusion. If she subsequently received the ROP before she returned the application to Aviva, I don't think she would have given it much consideration as she already had the illustration for what she specifically wanted. And that had confirmed there were no additional requirements and I think it's fair to say that the illustration was the more important document here.*

*From Aviva's own timeline of events once it received Miss F's application form on 25 May 2022 it tried calling her once on 30 May 2022 before writing on 2 June 2022. When it didn't hear from her it appears it took no further action until she wrote on 26 June which it received on 28 June 2022 when it made a further call attempt on 30 June 2022. In the circumstances of Aviva's error, I don't think this was proactive enough. And there's no evidence that Aviva would have taken any further action after 2 June 2022 if Miss F hadn't contacted it herself.*

*Aviva isn't responsible for postal delays, but it knew Miss F resided overseas and that postal delivery times might be unpredictable. Yet it only attempted a call on 30 May 2022. It didn't email despite specifically requesting both her telephone number and email address on the application form she'd returned, because "If we have any questions, we may need to contact you." So, I think it could have done more than it did. Had it, Miss F's benefits would have been paid sooner than they were.*

*Once Miss F received Aviva's letter requesting a bank statement, she immediately contacted it and promptly provided what it required. Had it made further call attempts or emailed her before then, I think this would have been resolved sooner. But had Aviva not made the error in the first place, I think Miss F would have enclosed the necessary bank details evidence with her application.*

*The illustration says that Aviva will work out the final value “when we have received everything we need”. Aviva says it used a valuation date of 11 July 2022 in calculating Miss F’s benefits as this is when it received the bank account information from her. But for Aviva’s error I think it would have had all its requirements by 25 May 2022. And it may be that Miss F has suffered a loss due to the value of the investment falling between then and 11 July 2022. If so, she should be put back in the position she should have been in.*

### **Putting things right**

*Aviva should establish the value of Miss F’s plan on 25 May 2022. If this is higher than the value used on 11 July 2022, she has suffered a loss and Aviva should compensate her for it.*

*As Miss F has taken her benefits it won’t be possible for Aviva to pay any compensation that may be due into the plan. So, it should be paid directly to her as a lump sum after making a notional reduction to allow for future income tax that would otherwise have been paid. This is an adjustment to ensure the compensation is a fair amount – it isn’t a payment of tax to HMRC, so Miss F won’t be able to reclaim any of the reduction after compensation is paid.*

*As Miss F would have taken tax-free cash, 25% of the loss would be tax-free and 75% would have been taxed according to her likely income tax rate in retirement. I think it’s reasonable to assume this to be 20%. So, making a notional reduction of 15% overall from the loss adequately reflects this.*

*If either Aviva or Miss F dispute that this is a reasonable assumption, they must let us know as soon as possible so that the assumption can be clarified, and Miss F receives appropriate compensation. It won’t be possible for us to amend this assumption once any final decision has been issued on the complaint.*

*If there is a loss Aviva should add interest at 8% per year simple after the notional tax reduction has been applied from 25 May 2022 to the date of settlement, and pay this to Miss F.*

*If Aviva deducts income tax from the interest, it should tell Miss F how much has been taken off. It should give Miss F a tax deduction certificate in respect of interest if Miss F asks for one, so she can reclaim the tax on interest from HMRC if appropriate.*

*I think Miss F has been inconvenienced by what has happened and it’s fair that Aviva pay her £150 compensation for the distress and inconvenience suffered.*

*I asked both parties to send me any further information or comments they would like me to consider.*

### **Response to provisional decision**

*Miss F said she accepted my decision.*

*Aviva said it accepted my 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.*

*Having done so, I’ve decided to uphold the complaint.*

As set out in my provisional decision I think Aviva made an error in the documentation it issued around the necessary bank account verification. And having done so I don't think it adequately followed up on the outstanding information it needed, and this delayed Miss F from receiving her pension benefits.

So, if this has caused her a loss, I think it is fair that she is compensated for it and the distress and inconvenience she has been caused.

### **Putting things right**

Aviva should establish the value of Miss F's plan on 25 May 2022. If this is higher than the value used on 11 July 2022, she has suffered a loss and Aviva should compensate her for it.

As Miss F has taken her benefits it won't be possible for Aviva to pay any compensation that may be due into the plan. So, it should be paid directly to her as a lump sum after making a notional reduction to allow for future income tax that would otherwise have been paid. This is an adjustment to ensure the compensation is a fair amount – it isn't a payment of tax to HMRC, so Miss F won't be able to reclaim any of the reduction after compensation is paid.

As Miss F would have taken tax-free cash, 25% of the loss would be tax-free and 75% would have been taxed according to her likely income tax rate in retirement. It's reasonable to assume this to be 20%. So, making a notional reduction of 15% overall from the loss adequately reflects this.

If there is a loss Aviva should add interest at 8% per year simple after the notional tax reduction has been applied from 25 May 2022 to the date of settlement, and pay this to Miss F.

If Aviva deducts income tax from the interest, it should tell Miss F how much has been taken off. It should give Miss F a tax deduction certificate in respect of interest if Miss F asks for one, so she can reclaim the tax on interest from HMRC if appropriate.

Miss F has been inconvenienced by what has happened and it's fair that Aviva pay her £150 compensation for the distress and inconvenience suffered.

### **My final decision**

For the reasons I've given above and in my provisional decision, my final decision is that I uphold this complaint against Aviva Life & Pensions UK Limited.

I direct Aviva Life & Pensions UK Limited to undertake the loss calculation as set out above and pay any compensation due to Miss F adding interest at 8% per year simple from 25 May 2022 to the date of settlement.

I further direct Aviva Life & Pensions UK Limited to pay Miss F £150 in compensation for the distress and inconvenience she had been caused.

If Aviva Life & Pensions UK Limited considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Miss F how much it's taken off. It should also give a certificate showing this if Miss F asks for one, so she can reclaim the tax from HM Revenue & Customs if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss F to accept or

reject my decision before 5 July 2023.

Nigel Bracken  
**Ombudsman**