

## **The complaint**

Ms T has complained that Aviva Life and Pensions UK Limited took too long to send her paperwork so that she could complete a withdrawal from her pension plan.

## **What happened**

The background to this complaint and my initial conclusions were set out in my provisional decision, which I issued in June 2023.

My provisional decision said:

### ***What happened***

*Ms T holds a pension plan with Aviva. Ms T wanted to complete a one-off withdrawal from her pension, so she contacted Aviva by email in late March 2022 to tell them that she wanted to know the procedure to draw from her pension.*

*Aviva posted a Retirement Options Pack dated 1 April 2022 to Ms T. Within this pack, in a section headed “Let us know what you want to do”, it was stated “Once you’ve read all the information and considered any guidance or financial advice, give us a call on 0800 151 2548 (or 01603 358570 if overseas) when you have made your decision”. Ms T has said that she never received this Retirement Options Pack.*

*In early May 2022 Ms T sent another email to Aviva. In this she said that she’d been waiting over a month for her request to drawdown from her pension. Ms T then emailed Aviva again towards the end of May 2022 to say that she had requested a drawdown from her pension and had tried calling numerous times but had received no response. Aviva treated Ms T’s email as a complaint.*

*On 26 May 2022 Aviva sent Ms T an email in which they said: “In order to receive the payment forms you require, you will need to ring the number on the Retirement Options Pack which has recently been issued. If you no longer have this, the number is 0800 151 2548 or +44 (0) 1603 358 570 if calling from overseas. A retirement specialist will then be able to talk you through all your options and the risks involved before sending you out the correct forms required”.*

*On 5 July 2022 Aviva issued their response to Ms T’s complaint. They said they had told Ms T that to receive the payment forms she needed to ring the number on the Retirement Options Pack. Aviva gave Ms T the telephone number to call again and said that the next*

*step for Ms T to access her money was to call Aviva's retirement centre.*

*Aviva say that Ms T contacted them again on 22 August 2022 and in response they sent her another Retirement Options Pack, dated 25 August 2022. This again said that Ms T needed to call Aviva's retirement centre to obtain the withdrawal forms she needed.*

*Ms T says that at the end of September 2022 she did call the number for Aviva's retirement centre and left a message for them to call her back. Ms T says that Aviva did then call her back on the same day and was told that she would get the paperwork she had requested in five working days. However, Aviva have said that they have no record of Ms T calling their retirement centre then*

*On 1 October 2022 Ms T emailed Aviva again. She said: "I am still waiting on my retirement package, if it was sent, then I didn't receive this. Can you 'resend' my retirement package to my home address. What I do have here, is a couple of pages of what is called retirement options, is this the same thing as your retirement package ??". In response Aviva posted another Retirement Options Pack to Ms T's home address.*

*Ms T did then call Aviva's retirement centre in mid-October 2022 and in late October 2022 she received the paperwork needed to complete her pension withdrawal. She posted the completed paperwork back to Aviva two days later. This paperwork was received by Aviva in early November 2022 and the withdrawal was completed and money paid into Ms T's bank account 6 days later.*

*Ms T wasn't happy with the response she'd received from Aviva and she referred her complaint to the Financial Ombudsman Service.*

*An Investigator within the Financial Ombudsman Service examined Ms T's complaint. They said that up until the time that Aviva issued their response to Ms T's complaint in July 2022 Aviva hadn't done anything wrong. This was because Aviva had given Ms T the information needed for her to complete the pension withdrawal.*

*However, the Investigator did think that after Ms T had contacted Aviva in late September 2022, it had taken them too long to issue the paperwork to her and that Aviva should therefore pay Ms T £100 in compensation for the distress and inconvenience she'd suffered. Ms T and Aviva didn't accept the Investigator's view and asked for this complaint to be brought to an Ombudsman.*

### ***What I've provisionally 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 seen a copy of the Retirement Options Pack dated 1 April 2022 that Aviva say they sent to Ms T. This has Ms T's correct address, although it was addressed to Ms T under her former surname. Ms T subsequently provided documentation to Aviva so that they could change their records to her current surname.*

*Ms T has said that she never received the 1 April 2022 Retirement Options Pack. However, whilst this did show Mrs T's former surname it was otherwise correctly addressed and I'm therefore satisfied that the pack was correctly sent by Aviva.*

*On 25 April 2022 Aviva wrote to Ms T to tell her that they had updated their records with her current surname. In response Ms T emailed Aviva on 5 May 2022 to say: "Thank you for informing me that my policy is in order but I am still waiting for my request for a drawdown of*

25% tax free from my pension. It's been over a month now and it's not acceptable".

Ms T then emailed Aviva again on 21 May 2022 to say: "I was trying to access my pension yet one of security questions I seem to get wrong. Can't see how as I have every single paperwork here. I am finding it very very frustrating to implement paperwork from Aviva to get a drawdown from my pension. I emailed you nearly two months ago, requesting this, yet still no reply. Hoping to hear from you very soon as I'm definitely not happy about this".

On 23 May 2022 Ms T emailed Aviva again to say: "I have requested a drawdown nearly two months now and I had no response from you. I have tried calling aviva numerous times and sent emails, still nothing which are all saved for future references. If I don't hear from you immediately after this email, I shall be contacting the ombudsmen".

On 26 May 2022 Aviva emailed Ms T to tell her she needed to ring the number on the Retirement Options Pack to get the payment forms she wanted. Aviva gave Ms T the telephone number to call so that a retirement specialist would then talk her through her options and would send out the correct forms required.

In their response letter of 5 July 2022 Aviva said: "On 1 April 2022 we sent your Retirement Options Pack. This advised the number to call when you had made your decision. We sent you a letter on 5 April 2022 to let you know what we needed to update your name. We received your documentation on 20 April 2022 and amended our records as requested. A confirmation letter was sent on 25 April 2022. We received your email on 24 May 2022 to let us know you were unhappy as you were waiting for the paperwork in order to access your money. We replied on 26 May 2022 to let you know in order to receive the payment forms required you will need to ring the number on the Retirement Options Pack which was previously issued. If you no longer have this, the number is 0800 151 2548 or +44 (0) 1603 358 570 if calling from overseas. A retirement specialist will then be able to talk you through all your options and the risks involved before sending you out the claim forms required".

When Aviva issued this response letter in July 2022 they would have known that Ms T had still not called their retirement centre, even though they had emailed her to explain what she needed to do on 26 May 2022 and had posted a retirement pack dated 1 April 2022.

Ms T had sent three emails to Aviva in May 2022 to say that she was trying to access her pension. Specifically, in her email of 23 May 2022 Ms T had said that she had tried to call Aviva numerous times.

I therefore think Aviva should have been aware that Ms T was having difficulty in completing the instructions that they had previously given her and that as a result I think they should have done more to help Ms T when they sent their response letter to her. I don't think that just repeating what they had already told her and to call their retirement centre was sufficient. I therefore don't think that Aviva responded sufficiently to Ms T's complaint or took adequate action to help her with her request to draw from her pension.

When Ms T subsequently contacted Aviva on 22 August 2022 she was sent a further Retirement Options Pack, which again said that she needed to call Aviva's retirement centre to obtain the withdrawal forms she needed. Ms T then emailed Aviva again on 1 October 2022 to say that she was still waiting for paperwork.

Aviva have said that once they issue a Retirement Options Pack they will not chase a customer as: "the decision to take their retirement is theirs alone and needs to be made in their own time". However, I think that it was clear from Ms T's emails that she was telling Aviva that she did want to take her retirement benefits and she wanted the paperwork to allow her to do this.

*When Ms T did manage to call the retirement centre in mid-October 2022, she had to leave a voicemail message for a retirement specialist to call her back. A retirement specialist did then telephone Ms T. I therefore don't think it unreasonable that a retirement specialist could have called Ms T at an earlier date without her having to leave a voicemail message requesting this, for example when she told them in May 2022 that she did want to make a withdrawal from her pension and had been trying to contact them by phone.*

*I therefore think that Aviva should have done more to help Ms T complete the withdrawal from her pension and they didn't respond adequately to her withdrawal requests. I think that if they had done this then Ms T would've been able to complete the withdrawal from her pension earlier than she did.*

*I think that this meant that Ms T received her tax-free lump sum of £5,427 later than she should have. It wasn't until October 2022 that the payment of Ms T's lump sum was set in motion. I think that it's reasonable that Ms T should be compensated for this delay. The usual approach would be for compensation to be calculated at 8% of the tax-free lump sum for the period of delay, which I think is five months. This equates to approximately £180. However, I also think that Ms T has suffered distress and inconvenience due to Aviva's error. Therefore, to compensate Ms T, Aviva should pay her £250 in total. I consider this to be a fair and reasonable amount to settle this complaint.*

### ***My provisional decision***

*For the reasons I've set out above, my provisional decision is that I plan to uphold Ms T's complaint.*

*I intend to direct Aviva Life and Pensions UK Limited to pay Ms T £250 to compensate her as detailed above.*

### **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.

Aviva responded to my provisional decision.

In their response Aviva said that they disagreed with what was being included in Ms T's complaint. This was because some of the events referred to in Ms T's complaint happened after Aviva had issued their final response letter to her in July 2022. Aviva said that as a result this service didn't have the jurisdiction to investigate those events.

Aviva has said that as they hadn't been able to investigate the events that happened after they'd issued their final response letter, they didn't think that they could fully respond to my provisional decision.

This service therefore told Aviva that if they didn't think that they were able to fully respond to my provisional decision, because some of the events happened after their final response letter, then in the interests of fairness they should now investigate those events.

However, Ms T has said that she's had no further response from Aviva, and more than eight weeks has now passed since we asked Aviva to investigate the events that occurred after their final response letter.

Aviva has however responded again to this service and have set out their full response to

my provisional decision. Aviva has also said that they see little benefit to Ms T in prolonging her complaint further by setting up a new complaint, so have asked that I now consider all of the points that they raised in response to my provisional decision.

Aviva has said that Ms T received all correspondence sent to her prior to and since April 2022 but didn't call Aviva's Retirement Centre between April and October 2022, despite it being explained in different formats that she needed to call the Retirement Centre. Aviva has said they think that this was due to Ms T's "*apathy*".

Aviva has also said that they are unsure why they should be held responsible for a customer's inability to act on instructions in good time.

Aviva has also explained that they operate a "*2 step process*" in dealing with requests to draw retirement benefits. They have explained that a customer requests a Retirement Options Pack which explains what a customer needs to do next, which is to call Aviva's retirement centre, so that specific requests of how a customer wants to retire are discussed and risk warnings are completed. Aviva have said that they asked Ms T to do this on a number of occasions.

Aviva has also said that they have no evidence of Ms T trying to call the retirement centre, as she has claimed, until Ms T successfully called in October 2022.

Aviva has further claimed that my provisional decision is saying that "*Aviva's safeguarding 2 step retirement process is flawed simply on the refusal of one customer to follow it*".

Aviva has also said that once a customer has received a retirement options pack it is then the customer's decision to call the retirement centre when they're ready to do so and that it's not for Aviva to call a customer. Aviva has also said that it is an execution only business and they allow all customers time to reach their own decisions.

Aviva has added that when Ms T did call the retirement centre in October 2022, they did then call her back. Aviva has added that, in their opinion, Ms T was then ready to make the important decisions outlined to her. Aviva has also said that Ms T simply emailing and stating that she wanted to take her retirement benefits, but refusing to follow the necessary steps to do so until October 2022, should not constitute a failure on their part.

As I've said above, Aviva has said that my provisional decision is saying that their "*2 step retirement process*" is flawed, but I don't think that this is what is said in my provisional decision.

In my provisional decision I considered the specific aspects of this complaint. I'd said that I didn't think it unreasonable that a retirement specialist could have contacted Ms T at an earlier date, without her having to leave a voicemail message. This was because Ms T had emailed Aviva to say that she had tried to call Aviva as instructed but had been unsuccessful in doing so.

Also, I don't think that I said in my provisional decision that Aviva should have bypassed the telephone call with their retirement centre and instead sent paperwork directly to Ms T. Instead, I've said that I think Aviva could have recognised that Ms T was having difficulty contacting their retirement centre and could therefore have offered to help her in completing their 2 step retirement process.

Ms T did manage to contact the retirement centre in October 2022, but she was only able to leave a voicemail message. This then meant that one of Aviva's retirement specialists did then have to call Ms T.

As I said in my provisional decision, Ms T had sent three emails to Aviva in May 2022 to say that she was trying to access her pension and in her email of 23 May 2022 Ms T had said that she had tried to call Aviva numerous times.

I therefore don't think that Ms T was refusing to follow the instructions that Aviva had given to her or was being apathetic. Instead, I think that Ms T was trying to follow their instructions but was being unsuccessful in doing so. I think this meant that she needed some help.

I therefore think that Ms T told Aviva in her email that she had been trying to contact the retirement centre and had tried to do so a number of times.

Aviva has said that they have no record of Ms T contacting their retirement centre before October 2021, but I don't think this means that Ms T hadn't tried to contact Aviva. As Ms T has said, her attempts to contact Aviva by telephone had been unsuccessful, so I wouldn't expect Aviva to have a record of a successful call from Ms T to their retirement centre.

I therefore think it reasonable for Aviva to have recognised from her emails that Ms T was having difficulty in following their instructions. Ms T also raised a complaint with Aviva, but in response Aviva again told Ms T to call the retirement centre. I have not seen any evidence to show if, when dealing with Ms T's complaint, Aviva asked Ms T why she had been unsuccessful when she had tried to contact Aviva, or to ask if there was any assistance that they could give to her.

As I also said in my provisional decision, I think that Aviva should have done more to help Ms T when they sent their response letter to her complaint. I don't think that just repeating what they had already told her and to call their retirement centre was sufficient. I therefore still don't think that Aviva responded sufficiently to Ms T's complaint.

Ms T contacted Aviva again in August 2022, after they'd sent their response letter to her. Aviva then sent her a further Retirement Options Pack, which again said that she needed to call Aviva's retirement centre to obtain the withdrawal forms she needed. Ms T then emailed Aviva again on 1 October 2022 to say that she was still waiting for paperwork. Ms T has said that she spoke with Aviva in September 2022, but Aviva has said that they have no record of Ms T contacting their retirement centre then.

Aviva has said that they think Ms T wanted to delay the process of drawing from her pension. But I have seen no evidence to show that she did want to delay the process. Instead, from evidence that I've seen, I think that Ms T did want to draw her pension, as she needed to meet certain financial commitments.

Aviva has said that once they issue a Retirement Options Pack they will not chase a customer as: *"the decision to take their retirement is theirs alone and needs to be made in their own time"*.

I understand the comment that Aviva is making, but in this particular complaint I think that as Ms T told Aviva on a number of occasions that she had decided to take her retirement benefits and had told Aviva by email in May 2022 that she had been trying to call them, then I don't think that it would have been unreasonable for Aviva to have offered some assistance to Ms T.

I therefore still think that Aviva should have done more to help Ms T complete the withdrawal from her pension. I also still think that if they had done this then Ms T would've been able to complete the withdrawal from her pension earlier than she did.

I am therefore not persuaded by the points that Aviva has put forward and I uphold Ms T's

complaint.

### **Putting things right**

Aviva should now compensate Ms T as I'd set out in my provisional decision.

### **My final decision**

My final decision is that I uphold Ms T's complaint against Aviva Life & Pensions UK Limited and Aviva Life & Pensions UK Limited should compensate Ms T as I detailed in my provisional decision above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms T to accept or reject my decision before 19 December 2023.

Ian Barton  
**Ombudsman**