

The complaint

Mr S has complained about the length of time it took Aviva Life & Pensions UK Limited (Aviva) to process his retirement claim.

What happened

Mr S had a pension policy with Aviva. It had originally been with Friends Life but was taken over by Aviva. Mr S's selected retirement date (SRD) was his 66th birthday in October 2017. Mr S says he first approached Aviva about his retirement in 2016 but it wasn't until 2019 that his tax free cash was paid and the remaining fund used to purchase a Lifetime Annuity. Mr S says Aviva should backdate payments to 2016.

I've seen that Mr S contacted us in July 2018 to lodge a complaint about delays by Aviva. On 17 July 2018 we emailed him asking for a copy of Aviva's final response. Despite reminders we didn't receive a reply from Mr S. But he contacted us on 8 January 2023 for an update. We explained, as we hadn't received a response to the emails in 2018 and 2019, his case was closed. Mr S explained his concerns in 2018 were never fully addressed by Aviva and he'd raised another complaint with them more recently.

On 18 May 2023 Aviva issued a final response to that later complaint, not upholding it. Aviva said they'd reviewed the history of the policy and they couldn't see they'd had any contact from Mr S previously in respect of the policy other than on a few occasions to ascertain values and servicing requests. In relation to the retirement claim, Aviva said they couldn't see there were any delays.

Mr S asked us to look into things for him. When Aviva provided their file to us they said, after a further review, they could see there'd been difficulties in locating Mr S's pension which would've been inconvenient for him. Aviva offered Mr S £150 for any trouble and upset caused. Mr S didn't accept that. He said Aviva didn't send functioning attachments and then suggested that not being able to access these was his own fault. Mr S said the issues went on for years, he'd made hundreds of calls, and had to go through the same process several times. £150 didn't even cover his call costs over that period.

We relayed Mr S's comments to Aviva who increased their offer to £250. Mr S rejected that and said he was looking for at least two years and two months of backdated pension payments.

The complaint was investigated by one of our investigators. He thought the £250 offered by Aviva was fair. I've summarised his main findings:

- The investigator was satisfied by the emails that Mr S had provided and which referred to him having made initial enquiries in October 2016 that Mr S had been trying to claim his pension benefits since then.
- There'd been difficulty locating Mr S's policy. Without recordings it was difficult to be certain of the content of the calls. But from the emails Mr S had provided it seemed he'd been dealing with the wrong department at Aviva. That department should've forwarded Mr S's policy details to correct department. How things were dealt with

wasn't good service.

- Aviva had provided copies of correspondence sent to Mr S on 1 November 2017 confirming Mr S had opted for tax free cash and to use the remaining fund to buy an annuity. So it seemed by then Mr S had been able to contact the right department. The correspondence included, amongst other things, an application form which had to be returned to Aviva. Mr S was living abroad at the time but he'd said if he'd received the correspondence he'd have replied.
- Mr S had produced an online article dated 20 September 2018 entitled '*Aviva customers hit by system glitch*'. It was difficult to say those issues would've definitely impacted on Mr S.
- Aside from the article, neither Mr S nor Aviva was able to produce anything for the period November 2017 to early January 2019. So it was unclear what had happened and if Aviva were responsible for any delay.
- The next correspondence we'd seen (at that stage) was on 18 January 2019. Aviva thanked Mr S for his recent communication and said, in order to deal with the pension benefit request, they'd need some outstanding information. So it was clear that there was some contact then or earlier about Mr S taking his pension benefits.
- Mr S had provided us with emails chains which began on 28 February 2019. Aviva said they'd get his quote drafted and arranged first thing the next day. When Mr S asked when the lump sum payment would be made, Aviva said as soon as they received his forms they'd begin processing them and payment should reach him a couple of a weeks later.
- On 11 March 2019 Mr S emailed Aviva expressing his dissatisfaction and saying he'd been desperately trying to take his tax free lump sum cash for over 18 months. On the same day Aviva responded explaining that two pages from the personal information form they'd sent to Mr S were missing and were needed to progress matters. Mr S replied, saying the two pages had come out blank and asked for them to send it again but this time to his address in the UK. Aviva arranged for the form to re-sent. A copy of an application form that was completed by Mr S has been provided and was received by Aviva on 5 April 2019.
- Confirmation that Mr S's tax free cash had been paid was issued on 25 April 2019 with the remaining £67,012.12 used to purchase an annuity – it appears that pays £854.54 on a quarterly basis.
- Mr S had said that, by March 2019, he'd begun borrowing money from friends and relatives and he'd sold some shares at unfavourable prices. He'd also said his health had been impacted. He'd also had to top up his phone £20 a day as Aviva's freephone number wasn't actually free.
- The investigator accepted that Mr S had gone through a difficult time. And Aviva's service could've been better. In particular their departments should have liaised better, which would've meant Mr S's policy could've been located sooner. But, without evidence as to all the calls Mr S had said he'd made to chase things up and significantly more evidence of the emails exchanged, it was difficult to definitively say Aviva were responsible for the delays Mr S has complained about. So it wouldn't be fair to ask Aviva to backdate Mr S's annuity or hold Aviva responsible for any losses that Mr S may have incurred by borrowing or encashing shares.

Mr S didn't accept the investigator's view and provided further information, including more emails. Amongst other things he said in 2018, instead of emailing, he'd tried to speed things up by telephoning. He'd spent a lot of time on the phone but was passed from '*pillar to post*' with no one able to help him. The emails he provided included one from Aviva on 27 December 2018, thanking Mr S for his email of 23 December 2018 and saying the completed forms could be scanned and sent to Aviva. There was also an email from Mr S to Aviva on 14 January 2019 saying he'd filled in the forms on 29 December 2018 and asking if there was any news. But he didn't get his first pension payment until 5 July 2019, over six

months later. He thought he should've had at least two payments by then. Mr S also supplied details of the renovations he'd undertaken, the costs and how he'd funded them.

But the further information didn't change the investigator's mind. So the complaint has been referred to me to decide.

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 don't doubt what Mr S has said about the difficulties he's encountered in trying to take his benefits from his Aviva policy. It's clear there were difficulties in locating the policy. Even if Mr S initially contacted the wrong department at Aviva, I'm not sure why he wasn't quickly redirected to the appropriate one. Mr S has said he's made multiple telephone calls and sent many emails, some of which have been produced.

But the central problem is, as the investigator highlighted, that a lot of the information is missing. To a certain extent that's understandable as the issues date back to 2016. But it makes it difficult to reach firm findings about the delays and whose responsibility they were. I have to look at what evidence there is in reaching my conclusions. That of course includes what Mr S says about what happened but I have to be fair to both parties. Sometimes just relying on what one party says won't be fair.

We determine complaints on the basis of what's fair and reasonable in all the circumstances of the particular complaint. As the investigator said, where the evidence is incomplete, unclear or contradictory we reach our decisions on the balance of probabilities, that is what we consider is likely to have happened. And, in some circumstances, there may not be sufficient evidence to come to a fair and reasonable conclusion about some aspects of the complaint.

Having considered everything, my views are the same as the investigator's. Some of what I've said below echoes the investigator's findings as I've summarised above. I'm satisfied that Mr S made initial enquiries in October 2016 about taking his pension benefits. That's evidenced by the email chains I've seen. Mr S was 65 then and his SRD on the policy was a year later in October 2017. So it's logical that Mr S would've been starting to think about taking his benefits from the policy.

Mr S has produced emails from Aviva in October 2017 which show that Aviva was having difficulty locating Mr S's policy. But it seems the problem was resolved fairly quickly. By November 2017, as evidenced by the copy correspondence Aviva has produced, Mr S was looking to take tax free cash and buy an annuity with his remaining fund. That fits with the policy having matured a month or so earlier. And, although Mr S has said he was trying to take benefits from the policy in 2016 and it seems he did make some initial enquiries in October 2016, I don't think it's unreasonable to assume he'd have taken benefits at his SRD. So the earliest I think the benefits were likely to have been paid was October 2017.

But although there's evidence to show that Mr S wanted to take his benefits around then or in November 2017, what happened after that isn't clear. The email trail goes cold until late 2018. It seems that by 23 December 2018 Mr S was in contact with Aviva again and things had progressed to where forms had been sent to Mr S to complete and return to Aviva.

To get to that point there must have been earlier contact. But nothing has been produced, by either Aviva or Mr S. So although it looks like Mr S wanted to take his benefits in November 2017 it's unclear why that didn't happen around that time and why things were only picked

up again in late 2018. I know Mr S says that delay was down to Aviva but I can't just assume that was the case. There may have been difficulties at Mr S's end. For example, he may not have received correspondence sent to him by Aviva. Assuming any letters were correctly addressed we wouldn't normally say postal delivery issues were Aviva's fault. I think Mr S was living abroad at the time which can sometimes cause problems.

I know Mr S has said he tried to speed things up by telephoning Aviva but, if that didn't work, we'd probably expect to see evidence of attempts to progress things by email or post. I know Mr S might say that a customer shouldn't have to do that but sometimes it's necessary, particularly if funds are needed urgently.

Mr S did contact us in July 2018 seeking to complain about delays on Aviva's part. I think that goes some way to evidence that Mr S was having problems. But he didn't respond to our requests for a copy of Aviva's final response letter and so we were unable to take matters forward. I'm not sure why Mr S didn't follow things up with us. If, at that stage, we'd intervened that may have resulted in Mr S's benefits being put into payment sooner. I know he's said his own efforts with Aviva continued, without success. But as we didn't look into his complaint and whether Aviva was delaying things, I can't now say I'm satisfied that was the case and when Mr S, for whatever reason, chose not to pursue his complaint then.

Mr S has also pointed to Aviva's reported system problems in September 2018. I can't say if that might've been a feature in the difficulties Mr S encountered. But I think the problem, even if perhaps more widespread than the investigator thought, would've been resolved relatively quickly.

All in all, from what I've seen (or perhaps more accurately not seen) I can't say I'm satisfied (and in the absence of emails, letters or traceable telephone calls to show Mr S was chasing payment) that Aviva was responsible for the fact that payment of Mr S's tax free cash and the setting up of his annuity weren't progressed between November 2017 and December 2018.

Moving on to what happened after December 2018 it then wasn't until April 2019 that Mr S's tax free cash was paid and his annuity didn't go into payment until July 2019. But it seems that information Aviva needed wasn't received until 5 April 2019. Again it's unclear exactly what happened. According to Aviva some of the information was missing but I think Mr S's position is that two of the pages were blank. From the emails I've seen, including those Mr S has more recently produced, it seems Aviva was in contact with Mr S during February 2019 as to Aviva's administrative requirements for paying the policy benefits. Those weren't met until April 2019, hence payments couldn't be made earlier. Taking benefits from a policy will usually involve a fair amount of form filling which will take some time, especially if there are any issues with documents being incomplete.

Taking that into account I don't think there was any delay in paying the tax free cash, payment of which was confirmed to Mr S on 25 April 2019. Although he didn't receive his first annuity payment until July 2019 that's because his annuity is paid quarterly in arrears. If it was set up at about the same time as the tax free cash payment in April 2019, the first annuity payment wasn't due until three months later in July 2019.

Although, by January 2019, Mr S was dealing with the correct Aviva department and arrangements were in hand to allow payment of his benefits, it seems another department of Aviva was apparently still trying to trace his policy. Mr S has supplied an email dated 24 January 2019 from Aviva's DBP (which I think refers to Defined Benefit Pension) Administration. So I think there may have been some ongoing confusion.

Mr S has provided evidence to show he was in financial difficulties in March 2019 and he had to borrow money. But, as the investigator noted, that didn't really explain the delay or provide definitive evidence as to who was responsible. I'd only be able to consider making an award in respect of borrowing costs and any investment losses if I was satisfied that Aviva was responsible for Mr S's tax free cash not being paid until April 2019 and/or his first annuity payment not being received until July 2019.

Mr S says the fact that he tried to get his tax free cash and annuity payments as early as 2017 (particularly the tax free cash which was required for much needed renovations) would suggest he needed the money desperately. But it comes down to whether I'm satisfied there was delay on Aviva's part. And, although Mr S may have factored into his renovations budget getting backdated payments from Aviva, I could only order those to be paid if I considered Aviva was responsible for the delay.

To sum up, it's clear there was some confusion in or around October 2017 in locating Mr S's policy and which, as I've noted above, may have continued even after Mr S was dealing with the correct department. And Aviva seems to accept there may have been some problem with email attachments sent to Mr S. I think £250 is fair and reasonable for any distress or inconvenience he's suffered in consequence of those issues. I know Mr S is likely to regard that as unsatisfactory. To some extent I can understand why. But I hope I've explained why I'm unable to uphold the complaint to the extent Mr S seeks. And why I can't say Aviva should pay more compensation for distress and inconvenience (including to reflect any impact on Mr S's health) and/or backdate payment of his benefits to 2016.

My final decision

I uphold the complaint but only in part. Aviva Life & Pensions UK Limited must pay Mr S £250 for distress and inconvenience caused by poor service.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 14 December 2023.

Lesley Stead
Ombudsman