

## **The complaint**

Mr W has complained that a requested fund switch was not processed correctly by Aviva Life & Pensions UK Limited ("Aviva"). Mr W states that since this error Aviva have not been able to provide clear confirmation of how this error has impacted his pension.

Additionally, Mr W has complained about the way in which Aviva investigated his complaint and the length of time this took.

## **What happened**

On 23 January 2023 Mr W asked Aviva to switch monies invested in the Jupiter Mid-Cap fund to the UK Equity fund.

The transaction was confirmed the following day; however, this had not been completed as per Mr W's request. The request had been to move monies from one fund to another, leaving the remaining investments untouched.

The transaction confirmation statement subsequently showed the units held within each investment fund had been altered as part of the switch.

There were ongoing communications between Mr W and Aviva throughout February 2023 where Mr W sought to gain clarity on how the error had affected his pension, both in terms of units in funds and overall value.

A table was produced in February 2023 which showed the units bought and unit prices of the funds held, both as actioned by Aviva and as originally requested by Mr W. This showed that based on unit prices on 22 February 2023, Mr W's pension was £7.66 better off because of the error.

This table was sent to Mr W via email with an accompanying description of what this showed. This email noted the two pension values and explained that:

*"In the final columns, the figure of £186,055.38 was your value before the switch and the figure of £186,063.04 was your fund value immediately after the switch was processed".*

There was a follow up call between Mr W and Aviva on the same day to discuss the table which had been sent. This conversation focussed on the number of units held in each fund, and the total number of units within the pension.

Mr W was still unsure as to how the error had impacted his pension and continued to ask questions of Aviva. This resulted in a complaint being registered.

Aviva issued its first response to the complaint on 23 May 2023. This accepted that the fund switch instruction had not been completed as requested and accepted responsibility for this.

The response also noted that some of the conversations in February 2023 regarding the table which had been sent had confused number of units held and value of those units. This letter explained that had the request been completed as instructed fewer units would have

been bought in the UK Equity fund. It was also stated that on 23 February 2023 it had been calculated that:

*“Overall, the value yesterday was higher with having the switch than if all the other units were at their previous levels and the UK Equity had just directly replaced the Mid Cap and with an overall increase in units the member is better off”.*

Mr W was still unsure as to how the error had impacted the value of his pension and as such further questions were asked of Aviva querying why the number of units held across each fund had changed and how this had affected his pension.

On 22 June 2023 Aviva explained to Mr W that on the day the error was made, the value of the pension was unaffected – whilst the number of units in each fund had changed the overall value of the pension was unaffected. In calculating how these differing units had impacted the value of the pension going forward a value date of 22 February 2023 had been used to show that at that date the pension was worth £7.66 more than if the fund switch instructions had been completed exactly as Mr W had asked. This date had been used as this was when Mr W had originally asked for such clarity.

Upon receipt of this information Mr W asked further questions around why he now had more units in some of his investment funds, and less in others.

In a follow up email, it was explained to Mr W that rather than move just one of his investment funds his pension had been rebalanced with the holding in each fund moved to the nearest percentage point. This had led to the number of units held in some funds increasing with others decreasing.

Whilst this cleared up the issue Mr W was having in understanding the number of units held in each investment fund, he remained unsure as to how the value of the pension had been affected. Aviva had stated that he had been *“advantaged”* however Mr W asked for this information in a *“clear and obvious way”*.

Aviva issued their second complaint response on 25 July 2023. This noted Mr W's instructions to transfer 100% of the Jupiter Mid-Cap fund to the UK Equity fund, leaving all other funds untouched, however went on to explain that when completing fund switches whole percentages of the overall pension value must be used. As such, whilst the Jupiter Mid-Cap represented 10.87% of the pension, either 10 or 11% had to be moved.

Tables were provided showing each fund and units held within that fund before the switch was processed, what would have been held had the switch been completed exactly as instructed, and what happened based on each fund being rounded to the nearest percentage (shifting each fund up or down to the nearest percentage as appropriate). This third table showed that the error had resulted in more units being held overall across the seven funds held. These tables showed this information as of 24 January 2023, the day after the original request was made by Mr W.

Aviva explained that they were willing to manually alter the pension to reflect the exact unit position as per table two to reflect Mr W's exact instruction. This would be backdated to the day after the switch instruction to ensure no investment loss had occurred.

It was additionally explained that as unit prices move each day there would be no way of forecasting what each solution would be worth at any given time in future. In addition, once Mr W had made his decision Aviva would be unwilling to revert to the other option in future.

Finally, Aviva offered £300 to cover the stress and inconvenience the issue had caused

Mr W.

Unhappy with Aviva's response, and still unsure if he had been disadvantaged by the error Mr W forwarded his complaint to this service.

Our investigator looked into things and stated that Aviva had accepted their error and that their offer to put things right was in line with what we would normally expect, as such it was for Mr W to decide whether to accept Aviva's offer or not.

Mr W did not agree and noted that he had not been told if he had been advantaged or disadvantaged by the error and as such could not make an informed decision regarding Aviva's offer. In addition, he noted that his second complaint point, around how long Aviva took to investigate his complaint had not been considered.

Our investigator responded and stated that they believed Aviva had provided Mr W with enough information and had offered to put Mr W back into the position he would have been in were it not for their error, as such they would not be asking for Aviva to do anything further.

With regard to the timeliness of Aviva's complaint response our investigator noted that whilst the complaint response was not issued within eight weeks, Aviva had kept Mr W informed throughout the investigation, provided Mr W with confirmation he had the right to refer his complaint to this service after eight weeks, and provided an answer when one was available.

Mr W did not accept these outcomes and as such the complaint was referred to me for a final decision.

I issued a provisional decision which stated:

*I will firstly deal with the issue around Aviva's investigation of the complaint and the timeliness of their investigation.*

*I can see that Mr W complaint was registered in February 2023 with outcome responses issued in May and July 2023, and that both would fall outside of the eight-week time limit for businesses to deal with complaints of this nature. However, as per the investigator's comments, Aviva did provide updates and did tell Mr W he had the right to refer the issue to this service after this eight-week time frame had expired.*

*Regarding this specific issue, I would note that there are strict rules around what issues this service can and cannot consider. Complaint handling itself is not a regulated activity and as such complaints made specifically about a business's complaint handling processes are not ones which this service can consider.*

*Whilst I can appreciate Mr W would have wanted quicker responses to his questions, and for his complaint to be resolved more quickly, I cannot comment further on this specific complaint point.*

*As such I have moved on to the main issue around the fund switch. Aviva have accepted this was actioned incorrectly and as such I have focussed on the responses provided by Aviva and their offer to put things right.*

*The chain of events above shows Aviva had tried on numerous occasions to provide Mr W with the clarity he needed to establish how the error had impacted his pension. Looking at the chain of events, and the information which was provided at each stage, I do not believe Aviva have done enough to provide Mr W with clear information in a timely manner.*

*I can see that the table produced in February 2023 would appear to show the value of the pension and individual investment funds had Mr W's request been actioned correctly, with this indicating he had made a gain of £7.66 because of the error.*

*However, the accompanying email and telephone call discussing this table confused the information. These discussed the number of units held and confused the number of units with the value of those units. It must be additionally noted that this table, whilst showing no loss had occurred, left Mr W with unanswered questions as to why the number of units held in each fund had changed. As such I consider Mr W's ongoing confusion with this information to be entirely reasonable.*

*Aviva's response to the complaint in May 2023 also left several issues outstanding. Why the number of units in each fund had changed was left unanswered and whilst the letter stated that "the overall value was higher" because of the error, no evidence to support this was provided with this statement being based on fund values from 22 February 2023.*

*From this point further information was provided in June 2023 and in Aviva's second complaint response dated 25 July 2023.*

*The fact that a £7.66 gain had been made was repeated to Mr W in the June 2022, however this information was four months out of date at that time with Mr W having other questions which remained unanswered.*

*In the July 2023 complaint response, it was explained that the pension had been rebalanced with each fund being moved to the nearest whole percentage. On the date the switches were made – 24 January 2023 – the value of the pension remained the same whilst the number of units in each fund changed slightly to reflect the percentage rounding.*

*This had led to the overall number of units held increasing.*

*Whilst this information provided clarity as to why the number of units on each fund had changed, no up to date valuation was provided to show whether the error had positively or negatively impacted the value of the pension.*

*The number of units held provides no meaningful measure of the impact of the error. Whilst the overall number of units increased, this simply means Mr W held a higher number of units at a lower average value.*

*I agree with our investigator that Aviva's offer to amend the pension to reflect Mr W's actual fund switch request would put Mr W back into the position he would be in were it not for the error, however I also accept Mr W's point that not enough up to date information has been provided to enable him to make an informed decision about this offer.*

*Overall, having looked at the chain of events above, and the various points of contact between Aviva and Mr W, I have concluded that Aviva need to complete an up-to-date redress calculation to establish if Mr W has suffered a loss, and provide Mr W with this calculation in a clear and simple format.*

*I appreciate that Aviva have undertaken some of this work before, most notably in February 2023, however, this was not explained correctly at that time and left some of Mr W's questions unanswered. By the time these additional questions were answered appropriately, the calculations that had been completed were several months out of date.*

*I do not consider it unreasonable for Mr W to be put into a fully informed position as to why the error occurred, why the number of units in each fund has been altered and be provided*

*with an up-to-date calculation of the impact of the error before a decision is made.”*

*As such I have gone on to make redress instructions below.*

### ***Putting things right***

*My aim is that Mr W should be put as closely as possible into the position he would probably now be in were it not for Aviva's error.*

### ***What must Aviva do?***

*To compensate Mr W fairly, Aviva must:*

- *Compare the actual value of Mr W's pension with the notional value of the pension assuming the switch had been carried out as instructed.*
- *If the notional value of the pension is higher than the current value of the pension, then a loss has occurred, and redress is payable to Mr W.*
- *If the current value of the pension is higher than that notional value, then no loss has occurred.*
- *Aviva should increase the value of Mr W's pension plan by the total amount of the compensation. This can be accomplished by re-modelling the pension as per Aviva's July 2023 response letter.*
- *If the current value of the pension is higher than the notional value of the pension then no loss has occurred, however Mr W may still want his pension investments amended to reflect the fund switch as he requested it. If Mr W wants these changes then he can request Aviva make these on his behalf.*
- *Pay to Mr W £300 for the distress and inconvenience this issue has caused. This is in line with the offer already made by Aviva with payment only made if Aviva has not already done so.*

*The redress calculation should be provided to Mr W in a clear and simple format. Ideally this would show the underling investment funds, the number of units held in those funds, the unit price of those funds, the value held within each fund, and the total value of the pension as at the date of the fund switch and as at the date of the calculation. This information should be provided for both the fund switches that actually took place, and for the notional fund switch which was requested by Mr W.*

### ***Why is this remedy suitable?***

*I've decided on this method of compensation because:*

- *The comparison will show whether the fund switch error caused Mr W's pension a loss or not, using up to date figures that will allow Mr W to see the overall impact of the error on his pension. If a loss has occurred Aviva can rectify this using the methodology they outlined in their July 2023 response letter.”*

*In addition to the above rationale and redress instructions, I asked both parties to provide any additional commentary or evidence they wanted me to consider before 11 January 2024.*

### **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.

No response has been provided by Mr W to the provisional decision issued.

Aviva accepted the provisional decision and provided additional policy information.

Given this I see no reason to change the content of the provisional decision. I remain of the opinion that the outcome reached is fair and reasonable.

### **Putting things right**

The redress instructions outlined in the provisional decision (copied above) remain unchanged.

### **My final decision**

I am upholding this complaint and require Aviva Life & Pensions UK Limited to complete the redress instructions above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 13 February 2024.

John Rogowski  
**Ombudsman**