

## **The complaint**

Mr H complains that Aviva Life & Pensions UK Limited (Aviva) failed to complete his instructions to switch his pension from a high-risk fund to a low-risk fund in July 2020. He thinks this led to his pension losing value. He also questions how a fund that was supposed to be low risk could've lost so much money.

## **What happened**

Mr H had a pension fund with Aviva. I understand that his fund choices were selected from the start of his policy. It's not clear whether this was with or without advice from a financial adviser.

Mr H called Aviva on 20 July 2020 about his pension fund. At the time, it was worth around £206,000. Mr H said he wanted to discuss taking 25% of his fund as Tax Free Cash (TFC). He said this completed on 28 August 2020, leaving £154,581 in his pension fund.

Mr H said that during the call on 20 July 2020, he told Aviva that his pension appeared to be losing money. And that Aviva told him that 75% of his investments was in a high-risk fund, with 25% in a low-risk fund. Mr H said that as he is a cautious investor, he asked for all of his investments to be placed in the lowest risk fund available.

Mr H called Aviva on 5 May 2023 about some documents he'd just received. He felt the figures shown were different from expected. He wanted to know what had happened to his pension to make the value fall so steeply.

Mr H believed that his request to switch into a low-risk fund had been processed around the same time as his TFC withdrawal. But when he noticed his pension had been losing money, he complained to Aviva on 14 July 2023. He said his pension had fallen from over £150K to under £100K. He said that when he'd called Aviva about his pension on 20 July 2020, he'd wanted to discuss taking 25% TFC. He said this had taken place on 28 August 2020. He said that during the call, he'd commented that his fund appeared to be losing money. And that Aviva had told him that 75% of his funds were in a high-risk fund and 25% in a low-risk fund. Mr H said that as he's a very cautious person without any financial experience, he'd asked Aviva to place all of his funds in the lowest risk fund available. He said Aviva had explained to him that he would sacrifice potential growth for security, but he was fine with that.

Mr H said that he had recently registered for online access to his pension. So he could now see how much his pension fund had gone down. He said that his secure fund had done what it had been supposed to do. But the Aviva Long Gilt S6 fund, which he had felt was supposed to be equally low-risk, had lost a fortune. He queried how a fund graded as the lowest risk could have lost this amount of money. He also said that he'd just learned that Aviva had re-graded the Aviva Long Gilt S6 fund as a high-risk fund with a risk rating of 5 out of 7. He wanted to know how Aviva could do this without informing him.

Mr H wanted Aviva to return him to the position he felt he should've been in if it'd completed his switch instruction.

Aviva issued its final response to the complaint on 16 August 2023. It didn't think it'd done anything wrong. It explained the external factors it felt had recently impacted pension investments. And said that pension values weren't guaranteed and could go down as well as up. It also said that although it was responsible for administering Mr H's pension, it wasn't responsible for making investment decisions.

Aviva acknowledged that Mr H was unhappy that the risk rating for the Aviva Long Gilt S6 fund had changed. It said that it changed its risk rating scale from a range of 1 to 5, to a range of 1 to 7. And that this had led to the Aviva Long Gilt S6 fund being rated as a 5 out of 7 instead of being a 4 out of 5. It said this wasn't a material change to the fund at that time.

Aviva didn't address Mr H's point that he'd asked it to place all of his fund in the lowest risk fund available during the 20 July 2020 call.

Unhappy with Aviva's response, Mr H brought his complaint to this service on 21 September 2023. He felt that Aviva's failure to complete the second part of his July 2020 instruction had caused his large financial loss and affected his ability to retire. He also questioned how a fund which was graded as the lowest risk could've lost so much money. Mr H also felt that Aviva had failed to address the crux of his complaint, which was about how a low-risk fund could've led to such a large loss. He also felt that Aviva's final response clearly showed that it had never carried out his request to switch his fund. He felt he'd given Aviva a very clear instruction for it to pay him his TFC and then to switch all remaining funds to a low-risk fund.

To put things right, Mr H wanted the switch he'd requested backdated to 20 July 2020. He also wanted compensation for the distress and inconvenience caused.

Our investigator didn't think that the complaint should be upheld. Although he didn't doubt Mr H's recollection of events, he felt there wasn't sufficient evidence that Mr H had completed his instructions to Aviva to ask it to switch his pension into lower risk funds.

Mr H didn't agree with our investigator. He said that he had no recollection of the call being disconnected. He said he had clearly instructed Aviva to switch his fund to a low-risk fund. He said that Aviva had put him through to its service team to help with his fund switch request. And that this showed that he'd made clear his intention to do the switch. He also said that he'd already confirmed the details of the low-risk deposit fund that he wanted to move the rest of his money to.

Mr H said it was inconceivable that he would've failed to call Aviva back if the call had disconnected. And in any event, he said he'd already requested the switch. He felt that as he'd already made a clear request, he expected Aviva to carry out his instructions.

As agreement couldn't be reached, the complaint has come to me for a review.

### **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'm not going to uphold it. I know this will be disappointing for Mr H. I'll explain the reasons for my decision.

I first considered if there's sufficient evidence that Mr H provided a clear instruction to Aviva to switch his pension into a low-risk fund.

*Is there sufficient evidence that Mr H instructed Aviva to switch his pension into a low-risk*

*fund?*

Mr H felt that Aviva's failure to switch his funds into a low-risk fund after his 20 July 2020 instruction had caused his large financial loss. He felt he'd clearly instructed Aviva to switch his fund to the low-risk deposit fund that some of his money was already invested in. He said that Aviva had put him through to its service team to help with his fund switch request, and that this proved that he'd made his switch intention clear.

Mr H said that Aviva paid him his requested 25% TFC. So he questioned why it hadn't followed the switch instruction he'd made at the same time.

Aviva told this service that there's no call recording for the 20 July 2020 call. But it provided the notes from the call. These said: "[Aviva's call handler's name] *Spoke to [Mr H] and he says he may consider swapping funds. He will self serve and maybe consider drawdown. No advice required at this stage*".

Aviva's notes are at odds with Mr H's recollection of the 20 July 2020 call. They don't indicate that Mr H provided a clear instruction to Aviva to switch funds at this point. Nor do they show that he definitively asked to take his TFC at this time. The notes do show that Mr H was considering both of these things. So I went on to listen to the 14 August 2020 call recording that's been provided to see if Mr H clearly instructed Aviva to switch his pension into a low-risk fund at this point.

During the 14 August 2020 call, Mr H discussed with Aviva that he wanted to access his TFC in order to help with a new house purchase. He also said he wanted to switch his pension into a lower risk fund. His call was put through to the department which could deal with his TFC request.

Aviva's call handler told Mr H that if he wanted to take his TFC, it would take 20 days at most, but was likely to be much quicker. Mr H said at this point that he wanted to move his funds into a less risky fund. The call handler then explained that he could only deal with the TFC request. He said:

*"If you want to change your funds, there is a different team which manages funds."*

The call handler then went on to explain that Mr H would need to tell the other team what he wanted to do, and it would action it for him. Mr H then discussed with the call handler what the best way round for the two requests would be. The call handler said it was up to him. He noted that it could take up to five working days for any switch to complete. Mr H then stated, that after he'd taken the cash:

*"The money that's left in the funds, split between the two ways of investing it. If I get put through to the other people, then they take 5 days into whatever option I'm going for."*

The call handler confirmed that this was correct. Mr H then said:

*"Well now you've explained all the pros and cons to me I can have a think about that and then decide."*

At the end of the call with the TFC team, Mr H asked to be put through to the team which could arrange an investment switch if they were available. The call handler said that team would only be able to provide factual information, with any investment decision being Mr H's to make. Mr H said he understood.

Mr H was then transferred to the team that could process switch instructions. He asked

some questions about funds, confirming that some of his funds were in a deposit fund. He also asked for 2018 and 2019 fund values. Mr H noted that this showed that there had been a trend of increasing values. But that now he was starting to use the money, he felt that a more fixed, known amount would probably suit him better. He asked Aviva to confirm the current rate of interest on the deposit fund. Aviva told Mr H he currently had much more of his money in Aviva's gilt fund. While it was looking up the current rate of interest Mr H had requested, the call appeared to disconnect.

From what I've listened to, although Mr H had expressed his intention to carry out a fund switch, he hadn't given Aviva any specific instruction for a switch during the call. So Aviva couldn't have known exactly what fund switch to apply, or whether to apply one at all. During the previous call with the TFC team, the call handler had made it clear to Mr H that he'd have to instruct the team which managed funds if he wanted to change his funds. Mr H noted that he understood what he had to do to instruct a fund switch in his response, as I've noted above. Therefore I'm satisfied that Mr H knew what he had to do to instruct a switch. And that he was aware that he hadn't yet done this by the end of the call with the TFC team.

Aviva told this service that it couldn't trace any further calls after the 14 August 2020 call disconnected. It said that no switch had been carried out as Mr H hadn't actually requested one.

I'm satisfied that the evidence shows that Mr H didn't instruct Aviva to make a specified switch during the 20 July 2020 call. Although I can't know exactly what was said during that call, I can see that Mr H wasn't surprised that his funds were still mostly held in gilts during the 14 August 2020 call. And that the purpose of that call was to arrange the TFC withdrawal and make a switch request. Therefore I'm persuaded that although Mr H had been considering a switch in July 2020, he'd only made the decision to request one after his call with Aviva about his TFC withdrawal on 14 August 2020.

While I can see that Mr H clearly then intended to make a switch request to Aviva after speaking to it about his TFC withdrawal, I've not seen sufficient evidence that he completed his instructions to Aviva to switch his pension into lower risk funds.

I say this because I've listened to the entirety of the 14 August 2020 call, and at no point does Mr H request a specific switch. And, while I acknowledge that Mr H considers that Aviva had enough information from him at this point to carry out his switch request without a clear instruction, I can't fairly agree. I say this because, as I noted earlier, Mr H understood that in order to make a switch, he would have to provide a specific instruction to a specific team. And there's no evidence that he did.

I also acknowledge Mr H's position that it was inconceivable that he would've failed to call Aviva back if the call had disconnected. But I've no evidence that he did call back. And the 14 August 2020 call recording shows that Aviva had made it clear that Mr H understood the process he would need to follow to instruct the switch. And how long it would take.

Therefore, while I acknowledge how frustrating it must've been for Mr H to have been cut off during the 14 August 2020 call, I'm satisfied that he knew what he'd have to do to request a fund switch. And I've not seen sufficient evidence that he ever did this. Therefore I can't fairly say that Aviva failed to complete a switch instruction in 2020.

I next considered Mr H's query about why a fund graded as the lowest risk could've lost so much money.

*The Aviva Long Gilt S6 fund*

Aviva told this service that the fund's risk rating changed from 3 to 4 in 2015. And that the 2019 change to its risk rating scale had led to the fund being rated as a 5 out of 7 instead of being a 4 out of 5, despite there being no material change to the fund at that time. It said it didn't write to its customers to inform them of risk rating changes unless a risk rating changed by 2 or more.

From what I've seen, Mr H's fund wasn't ever graded as the lowest risk. And Mr H chose the fund either himself or with advice from his adviser. I can also see that Aviva's normal processes didn't require it to inform its customers of the changes in risk rating to this fund, as those changes never met the conditions required for that to happen. As I've found no evidence that Aviva advised Mr H to invest in this fund, I can't fairly say Aviva did anything wrong here.

I'm sorry that Mr H's call with Aviva on 14 August 2020 was cut off before he could confirm his switch request. But I can't fairly hold Aviva responsible for failing to follow a clear switch instruction, as there's insufficient evidence that one was made in either July or August 2020. Therefore I don't uphold the complaint.

### **My final decision**

For the reasons explained above, I don't uphold Mr H's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 12 March 2024.

Jo Occleshaw  
**Ombudsman**