

The complaint

Mrs H complains that Aviva Life & Pensions UK Limited (Aviva) caused avoidable delays to her pension transfer when it failed to respond to her information request in a timely manner. She says this delayed her ability to transfer her pension from another provider to Aviva, leading to a potential financial loss,

Although Aviva has carried out a loss calculation, Mrs H feels that the dates it used didn't fairly reflect what she would've done but for the delays it caused. To put things right, she'd like Aviva to carry out a loss calculation assuming she'd transferred her pension in February 2023, rather than October 2022.

What happened

Mrs H had a personal pension with a provider I'll refer to as provider P. This was invested in funds which she felt were more volatile than she now wanted. So she started to consider transferring her pension to Aviva and investing the transferred funds into less volatile funds. Mrs H also wanted to be able to monitor her funds online, something she wasn't able to do with provider P.

On 13 August 2022, Mrs H contacted Aviva to ask if it was covered by the Financial Services Compensation Scheme (FSCS). And for information on how her pension would be dealt with if she transferred it from provider P. She wanted to make sure her funds would be completely safe with Aviva before she committed to a transfer.

Aviva responded to Mrs H's request on 1 September 2022, but she still didn't have the information she needed. So she emailed it on 2 September 2022 and again on 4 October 2022. When she didn't receive a response, she raised a complaint on 24 January 2023. This said:

"I am trying to make some important decisions about managing my pensions. I am awaiting a response from Aviva to my e mails of 2/9/22 and 4/10/22. The lack of response is causing me difficulty and concern."

Aviva issued its final response to the complaint on 16 March 2023. Within that response, it provided the information Mrs H had requested on 2 September 2022. It said it'd taken seven-months to respond to Mrs H's information requests. It apologised and explained that this had happened due to her emails not being added to its records. And therefore no tasks being set up either on its work system or manually.

Aviva offered Mrs H £150 compensation for its lack of communication and the time it'd taken to respond.

Mrs H replied to Aviva on 27 March 2023. She didn't think the £150 it'd offered reflected the impact of the delay on her pension funds. She said she'd planned to move her funds from provider P to Aviva, so that she would have greater control over her funds and: *"to ensure they were in a less volatile fund."*

Mrs H said that on 20 February 2023, her pension with provider P had been worth £99,343. But that on 24 March 2023, it had only been worth £93,662. She acknowledged that markets had generally gone down, but felt that if she'd moved her fund to Aviva on 20 February 2023 her loss would've been less substantial. Mrs H therefore asked Aviva to reconsider its offer of redress.

Aviva responded to Mrs H on 20 April 2023. It said there was currently no financial loss as her pension remained with provider P. But it said that if she did transfer her pension to it, it would check if its delays had caused a financial loss.

Mrs H told Aviva on 3 May 2023 that she would arrange the transfer. And then contact Aviva so it could check for any financial loss.

I understand that a transfer instruction was arranged through the Origo system on 23 May 2023. On 31 May 2023, a note on Origo from provider P requested confirmation about which parts of her pension Mrs H wanted to transfer to Aviva. Aviva said it contacted Mrs H about the transfer on 1 June 2023. And that on 2 June 2023, it added a further note on Origo which confirmed the funds she wanted to transfer from provider P.

Provider P sent £96,992.69 to Aviva on 8 June 2023. Aviva received the funds on 14 June 2023.

Mrs H wrote to Aviva on 15 June 2023 to ask it to consider her financial loss.

Aviva then worked out what it felt should've happened but for the delays. It said the following should've happened.

- After receiving Mrs H's information request on 2 September 2022, it should've taken five working days to respond in full, so by 7 September 2022. It felt that Mrs H would've then confirmed her request to transfer to it.

Mrs H had actually requested the transfer on 3 May 2023.

- Aviva said that information would then have been sent 20 days from the transfer request, so by 27 September 2022 it would've requested the transfer through Origo.

Using the same timescales, Aviva said this should've happened by 23 May 2023.

- Aviva said that the first note should've been placed eight working days after the Origo transfer request on 7 October 2022. And that it would've then contacted Mrs H on 10 October 2022, the first working day after that.

The first note on Origo was actually placed on 31 May 2023. And Aviva contacted Mrs H the working day after this.

- Aviva then added a further note to Origo on 11 October 2022, a day later, to confirm which funds Mrs H wanted to transfer.

In actual fact, Aviva contacted Mrs H a day after it added the second note.

- Aviva said it would then take six working days for the funds to be sent, so they should've been sent on 19 October 2022. And a further six working days for the funds to be received. Therefore it felt it should've received the funds by 27 October 2022.

These timescales reflected the actual time it'd taken for the funds to be sent on 8 June 2023 and received on 14 June 2023.

On 9 August 2023, Aviva wrote to provider P for information so that it could consider financial loss. It requested the following:

- The value of Mrs H's pension on 11 October 2022.
- The funds that she was invested at the time, and the fund split.
- Any charges she paid for transferring, and if they were different in October 2022 to any charges paid when she transferred to it in June 2023.

When Aviva didn't receive a reply, it chased provider P on 24 August 2023 and 19 September 2023. It also wrote to Mrs H on 19 September 2023 to tell her it was still waiting for the information it needed to complete the loss calculation.

Mrs H chased Aviva for an update on the loss calculation on 23 October 2023. Aviva told her it still hadn't heard from provider P. And that it would chase it. It also asked Mrs H if it would be possible for it to ask provider P to send her the information, so that she could forward it on. Mrs H agreed to this.

Aviva spoke to provider P on 2 November 2023. It agreed to send the requested information direct to Mrs H. She then passed on the information Aviva needed on 13 November 2023.

This stated that as at 11 October 2022, her fund had been valued at £90,236.68, with a transfer value of £90,137.28.

On 16 November 2023, Aviva wrote to Mrs H with the results of its loss calculation. It said that but for its delays, it would've received her transferred funds on 19 October 2023, using the fund value as of 11 October 2023. It said that on this basis, it hadn't identified any financial loss.

Mrs H replied to Aviva on 17 November 2023. She didn't agree with the date Aviva had said she would've transferred. Mrs H felt that the date it'd suggested was when her pension's value was at a low point. She said she monitored her pension and that she would've transferred on 20 February 2023, when her funds had recovered.

Aviva responded to Mrs H on 23 November 2023. It didn't agree with the date she'd said she would've transferred. It acknowledged why she wanted to use a specific date. But said that when it looked at financial loss, it used the earliest date the monies would've been received, assuming the transfer proceeded along the same timeline as the actual transfer.

Mrs H wasn't happy with this response. So she brought her complaint to this. She felt that Aviva had made assumptions about the date she would've transferred her pension if it'd provided her with the information she'd asked for in a timely fashion. She felt it was incorrect to suggest she would've transferred her pension when its value was at a low point. She said Aviva hadn't taken into account the behaviour of any normal prudent investor, which she felt would be to wait for an advantageous point and then transfer.

Our investigator first considered Mrs H's initial complaint to Aviva, which she made on 24 January 2023. As Mrs H had brought this part of her complaint to this service more than six months after Aviva had provided her with referral rights on 16 March 2023, our investigator felt this complaint wasn't one this service could consider,

Our investigator went on to consider the merits of Mrs H's follow-up complaint, which Aviva addressed in its 23 November 2023 final response letter. She considered the position Mrs H should now be in but for Aviva's delays. She acknowledged that Mrs H had said that she wouldn't have transferred her pension in October 2022, as she'd felt its value was at a low point.

Our investigator considered that it was more likely than not that, but for the delays, Mrs H would've started the transfer of her pension as soon as she'd received the information she'd asked for. Had she done so, our investigator felt that the correct transfer value to use for the loss calculation would've been as of 11 October 2022. As Aviva had used this date for the calculation, our investigator felt that it'd taken reasonable steps to put things right.

Mrs H didn't agree with our investigator. While she agreed she'd intended to move her pension to a less volatile fund, she strongly disagreed that she would've immediately gone ahead with the transfer as soon as she'd got the information she needed from Aviva. She said she would've considered the value of her pension at the time.

Mrs H said that although she was concerned by the volatility of the fund, she hadn't anticipated that it would simply continue to fall. She felt this is what our investigator had implied. She said she expected her funds would recover, as they'd always done over the many years she'd held them. She therefore didn't think it was reasonable to assume she'd lock in losses by transferring at a low point, rather than waiting for her funds to recover before making the transfer. She noted that it would be much more difficult and take longer for a recovery within a more conservative fund.

Mrs H also explained that she'd held her provider P funds for many years. And that she hadn't been desperate to transfer out at any cost. She said she'd first asked Aviva for the information she would need so that she could prepare herself to make an informed decision at a favourable point.

Mrs H said she was content to accept the payment for distress and inconvenience of £150.

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

I issued my provisional decision on 17 September 2024. It said:

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 intend to uphold it. But I think that Mrs H will still be disappointed. While I fundamentally agree with the assumptions Aviva said it took to work out the date the loss calculation should be based at, I think it's made a minor mistake in arriving at the date it used. I'll explain the reasons for my decision.

Before I start, I'd like to say that I agree with our investigator's points about why this service doesn't have the power to consider Mrs H's initial complaint about Aviva's failure to respond to her information request. I can see that she brought that complaint to this service more than six months after Aviva issued its final response letter.

In any event, Mrs H said she was content to accept the payment Aviva had made for its lack of communication and the delays it'd caused. So I've not considered this point further.

The crux of this complaint is the date that the loss calculation should be based on. Aviva has calculated that this should be 11 October 2022, when it said it should've received its final requirement for the transfer. Mrs H thinks that it should've been 20 February 2023, when her

pension with provider P had been worth £99,343.

What date should the loss calculation be based on?

Mrs H felt that Aviva was wrong to suggest she would've transferred her pension when its value was at a low point. She felt that a normal prudent investor would've waited for an advantageous point before they transferred.

Mrs H acknowledged that she'd intended to move her pension with provider P to a less volatile fund. But said she wouldn't have transferred that pension to Aviva as soon as she'd got the information she needed. Instead, she would've waited for her funds to recover as she expected them to do. She said that was the whole point behind her regular assessments of her funds with provider P.

I acknowledge why Mrs H feels the way she does. I agree that losses would be locked in if the transfer went ahead at a low point, particularly when transferring from a more volatile fund to a less volatile fund. I also appreciate that Mrs H wasn't in a particular rush to transfer.

However, the issue I need to consider here - without the benefit of hindsight - is whether it's reasonable to suggest a better date for the loss calculation than the one Aviva's usual process would identify. This service would only suggest a different date if there was clear documentary evidence that a consumer intended to make an investment on a certain date.

Mrs H told this service that while she'd been keen to transfer her provider P pension for some time, its value by October 2022 was at a low point. But I'm not persuaded she could've known that in September 2022, when she received the information she needed from Aviva. Nor am I persuaded that she could've known, in September 2022, that her pension funds would reach a high point in February 2023. She only now knows this with hindsight.

Therefore, while I don't doubt that Mrs H was monitoring her funds carefully with a view to transferring them at a beneficial time, I'm not persuaded that she had any way of achieving this, other than by luck.

Even if I did think that Mrs H had some skills at timing the market, I'm not persuaded that the transfer process would've allowed her to time it in the way she's suggested. I say this because, if she'd wanted her transfer to complete by a certain date, she'd have had to instruct the transfer around a month before that date. I say this because that's how long transfers take.

I acknowledge that Mrs H considers that Aviva has chosen to carry out the loss assessment at a low point, but I don't agree. Instead, I'm satisfied that Aviva has tried to conduct the loss assessment in its usual manner. The only issue I have with it is that I consider that it's made a minor error with its timeline, which I'll cover later in this decision.

When asking Aviva to consider compensation for potential financial loss in her 27 March 2023 letter, Mrs H stated:

"I appreciate that calculation of compensation is not an exact science..."

While I agree with this statement, this service considers it reasonable for a timeline to be constructed showing what should've happened. It's usual for such timelines to be based on a business's standard turnaround times and the actual time taken for certain stages of the process being considered. Any other dates can reasonably be considered to be suggested with the benefit of hindsight unless there's documentary evidence that the investor had actively planned to take an action on a specific future date. I'm not persuaded that this is the

case here.

When constructing its timeline for what should've happened, Aviva said that it'd assumed five working days for its responses. And that it had used the actual amounts of time taken for external actions. Having done that, it felt that the loss calculation should be carried out as of 11 October 2022, as this was the date the last requirement should've completed.

Having carefully considered what Aviva has set out, I'm satisfied its approach to the calculation of its timeline was reasonable. And that it fairly reflected what should've happened but for the delays it caused. However, I think that Aviva has made a mistake in its application of this approach when constructing Mrs H's timeline.

Aviva said that the first Origo note was placed eight working days after 23 May 2023. But the evidence shows that it was placed on 31 May 2023, which is either eight calendar days after 23 May 2023, or five working days, due to the bank holiday.

I therefore consider that, using Aviva's usual assumptions for working out timelines, the first note should've been placed eight calendar days after 27 September 2022, which is 5 October 2022. Alternatively five working days, which is 4 October 2022. I'm satisfied that as this isn't an exact science, 5 October 2022 is a suitable date.

If I continue to use Aviva's reasonable assumptions for the timings, it would've contacted Mrs H the next working day, 6 October 2022. And it would then have added a further note to Origo a day later, on 7 October 2022. Therefore I consider that all of Aviva's requirements would've been met on that day. As such, I consider that it should've carried out the loss calculation using the fund value from provider P as of 7 October 2022, not 11 October 2022.

I therefore intend to require Aviva to conduct an amended loss calculation based on the fund value from provider P as of 7 October 2022. I expect this will be more quickly obtained if Mrs H requests it directly from provider P.

In saying this, I want to manage Mrs H's expectations. The amended calculation I'm proposing is unlikely to yield vastly different results from the calculation Aviva has already made. Therefore I don't expect it to show a financial loss.

Overall, I think that Aviva took reasonable steps to put things right. The evidence shows that it didn't select the loss calculation date because it was a low point in Mrs H's fund value. Instead, it simply used its usual process to work out when the transfer should've taken place but for its delays. But with a small mistake in the date calculation which I intend to ask it to correct. Therefore I intend to uphold the complaint.

Response to my provisional decision

Mrs H didn't respond to my provisional decision.

Aviva said that it'd contacted Mrs H to see if she'd contacted provider P to get the information it needed to complete the calculations. It said it'd also asked her to provide it with contact details for provider P.

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.

As I've not been provided with any new information, I remain of the view set out in my

provisional decision.

Putting things right

Aviva Life & Pensions UK Limited must carry out an amended loss calculation using the fund value as at 7 October 2022.

My final decision

For the reasons set out above, I uphold Mrs H's complaint. Aviva Life & Pensions UK Limited must take the action detailed in "Putting things right" above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs H to accept or reject my decision before 31 October 2024.

Jo Occleshaw
Ombudsman