

The complaint

Mrs C complains that Aviva Life and Pensions UK Limited failed to show any sensitivity, understanding or empathy when handling the claim on her late husband's pension. She also explained that the manner with which Aviva asked for certain information to support the claim wasn't appropriate.

Mrs C says she feels let down by Aviva during what has been an incredibly difficult period in her life.

What happened

Note - after carefully considering Mrs C's concerns, I issued a detailed provisional decision on this complaint to both parties, giving each the opportunity to respond. I have decided to withhold certain information about Mrs C's circumstances in the final decision that I am now issuing below - our rules allow me to do this. I'm taking this approach because if I didn't redact certain information, there is a risk that Mrs C could be identified from her set of circumstances when this decision is published on our website. This decision should be read in conjunction with my earlier provisional decision.

In June 2022, Mrs C contacted Aviva to let them know of her late husband's death and the fact that she wished to claim his pension benefits. Shortly afterwards, Aviva wrote to Mrs C, setting out the information that they needed from her, which they would then provide to the scheme trustees who would decide where Mr C's pension should be paid.

Over the coming months, Aviva and Mrs C exchanged correspondence about the claim – Aviva asked Mrs C for details of her late husband's wider family members, which Mrs C questioned, as she felt no one aside from herself was financially reliant on Mr C. Aviva explained that if Mrs C wasn't able to share that information with them, they'd need to source the information from other family members, but that meant the claim could take longer to process.

In late December 2022, Aviva raised a further query with Mrs C about her late husband. Mrs C then responded to Aviva's email, providing a detailed explanation of their family circumstances immediately prior to his death. After not hearing anything back from Aviva, Mrs C chased them twice in January 2023 and then telephoned them in February 2023, asking for an update. Aviva later explained that whilst they had notification of two emails on their postmaster system, the messages appear to have been blocked so they didn't receive the information from Mrs C that they asked for. The same issue occurred again in February 2023 with a further message that Mrs C sent, but Aviva later managed to retrieve that message. Mrs C explained that having to retell the story to Aviva, exacerbated her anxiety.

During their exchanges, Mrs C told Aviva that her late husband had left some paperwork that set out his wishes on his death. Aviva asked Mrs C for a copy of that letter, but Mrs C was reluctant to share it with them as, she explained, she didn't feel it was relevant to the case.

Unhappy with the service that she'd received from Aviva, Mrs C decided to formally complain to them. In summary, she said that the information that they were asking for wasn't relevant to the claim. After reviewing Mrs C's complaint, Aviva concluded that they were satisfied they'd done nothing wrong. They also said, in summary, that they needed the information that they'd asked for to enable them to make a decision on who to pay the benefits to from her late husband's pension.

Mrs C was unhappy with Aviva's response, so she referred her complaint to this service. In summary, she said that she'd found Aviva difficult to deal with and that they'd asked her for the same information several times over, despite having already sent it to them, and she didn't feel some of the information that Aviva were asking for was relevant to the claim.

The complaint was then considered by one of our Investigators and she concluded that Aviva hadn't treated Mrs C fairly. Our Investigator also explained that, given she'd seen evidence that Mrs C had to provide the same information to Aviva on multiple occasions, it seemed that Aviva had added to the upset and worry of what was already a difficult time for Mrs C. During their interactions with our Investigator, Aviva explained that they wished to offer Mrs C £500 in recognition of her having to send the same information to them on a number of occasions. After considering Aviva's offer, Mrs C remained unhappy and after considering her complaint, our Investigator concluded that Aviva should pay Mrs C £750 for the trouble that they'd caused her.

Aviva responded and explained that they didn't wish to challenge the outcome and would pay Mrs C the £750. Mrs C, however, disagreed with our Investigator's findings. In summary, she said that she didn't believe the £750 reflected the extreme stress and anxiety that she'd been through. In addition, she also said:

- She's found having to defend her actions to both Aviva and this service as trauma triggering. She went on to say that she doesn't believe Aviva should have persistently asked her for a copy of the letter that her late husband left, because there was no legal requirement for her to hand it over, especially given that she is a vulnerable client. She also said that her wish of withholding it should have been respected.
- She explained that she believed Aviva had mis-represented the facts to this service about her being uncooperative by refusing to provide information to them. She went on to say that she had been forthcoming with Aviva in their enquiries.
- Aviva haven't provided her with a copy of the report that was given to the board of trustees to make their decision. She says, however, that having seen internal emails about what Aviva were saying about her, she's of the view that the trustees were only given 'half truths'.

Our Investigator was not persuaded to change her view as she didn't believe that Mrs C had presented any new arguments that she'd not already considered or responded to. Unhappy, Mrs C then asked the Investigator to pass the case to an Ombudsman to review that outcome.

As I've already set out above, after carefully considering the complaint, I issued a provisional decision on this case. I did so because, whilst I was minded to agree with the view issued by our Investigator, given the circumstances of the case and the fact that it has evolved somewhat since Mrs C's original complaint came in to this service, I wanted to give both parties a final opportunity to respond before issuing my final decision.

What I said in my provisional decision (redacted):

I want to start by saying how sorry I am to hear of Mrs C's loss and I want to assure her that having thoroughly reviewed the file and listened to the recorded calls, I very much gained a sense of the distress and upset that these circumstances have had on her. Mrs C has found herself in a very challenging situation and having lost her husband, I'd like to acknowledge how difficult it must be for her.

The purpose of my decision isn't to address every single point raised. My role is to consider the evidence presented by Mrs C and Aviva, in order to reach what I think is an independent, fair and reasonable decision based on the facts of the case. In deciding what's fair and reasonable, I must consider the relevant law, regulation and best industry practice, but it is for me to decide, based on the available information that I've been given, what's more likely than not to have happened. And, having done so, whilst I'm upholding Mrs C's complaint, I won't be asking Aviva to take any further action beyond what our Investigator has already set out. I appreciate that Mrs C will likely be disappointed by my decision, and whilst I'm not sure I can add a great deal more than our Investigator has already set out, I'll explain why below.

I think to start with, it would be useful to explain the wider context to Aviva's actions that led Mrs C to find herself in the position where she felt the need to complain to them. When a pension plan holder dies, the benefits that they've built up within their pot need to be distributed. However, unlike other assets which are shared out according to the individual's will (or rules of intestacy if there is no will), pension funds are treated differently to other assets on death. That's because on death, pension funds fall outside of the individual's estate. What that means in practice is that it's the trustees of the pension scheme who decide when and who the plan holder's funds should be distributed to. Whilst the pension holder can complete an 'expression of wish' form, which guides the trustees to what they'd like to happen with their pension upon death, the trustees aren't bound by those wishes and they only have to consider them.

However, in determining who to pay the pension holder's funds to, the trustees are required to complete detailed enquiries to satisfy themselves that they've built up a complete picture of the plan holder's circumstances, in order to enable them to make an informed and balanced decision. That process can include asking for a copy of the plan holder's will (if there is one) and asking for details about the plan holder's personal and financial circumstances immediately before death. As part of those enquiries, the trustees need to establish any individuals who may have had a financial link or dependency on the plan holder. That information then allows the trustees to determine who should benefit from the deceased's pension funds. If they didn't undertake those enquiries, and then it subsequently came to light that the trustees had missed a potential beneficiary, the trustees could become liable to take corrective action and incur significant costs in doing so.

So, just because an individual has completed an 'expression of wish' form, it doesn't necessarily follow that the trustees will always implement those wishes and that's because a plan holder's circumstances can change since the form was completed. So, to be clear, all trustees, and not just Aviva, must gather as much evidence as possible about the individual's circumstances at the time of death, to decide whom best to pay the pension funds to.

However, when Aviva are collating that insight, I'm mindful that if it's not done in an appropriate and sympathetic manner, it could appear to the consumer as being intrusive, insensitive and uncaring. And, having gone through Aviva's process following the death of her late husband, Mrs C feels that Aviva didn't treat her with the dignity or sympathy that she would have expected in these circumstances.

Mrs C explained that, prior to his death, her late husband left a letter that stated he wanted

his pension and life insurance to go to her. In December 2022, Mrs C initially explained to Aviva that she would send them this letter because she was concerned that not doing so would put her into an uncomfortable situation. However, Mrs C later explained that she only offered to send Aviva the letter as she felt bullied into doing so. Whilst I appreciate the letter and its contents are a very sensitive topic for Mrs C, I think it's important that I cover this issue in my decision.

As I've already explained, in determining who to pass the pension monies to, Aviva needed to build up a complete picture of Mr C's circumstances at the time of his death and importantly, his likely wishes. So, Aviva asked for a copy of the letter that Mrs C said showed he wanted her to benefit from his pension. However, Mrs C explained that she didn't want to provide the letter to Aviva because it was completely irrelevant and insensitive to expect her to send it to them. She went on to explain that she believed Aviva had already been provided with sufficient evidence that demonstrated she was financially dependent on Mr C and as such, she should be the sole beneficiary.

As Mrs C didn't wish to provide a copy of the letter, Aviva explained that they would accept a redacted version of it, or a statement from her solicitor confirming the contents of it. However, Mrs C has explained that her solicitor has advised her that there is no legal obligation on her part to provide Aviva with the letter, so she doesn't wish to do so. Mrs C has now explained that her financial situation is such that she doesn't have the funds to pay her solicitor for a redacted version of the letter and in any event, as there's no certainty it would alter the outcome, she doesn't wish to pursue that avenue.

I don't think it was unreasonable for Aviva to ask Mrs C for a redacted copy of that letter because, if it does indicate Mr C's wish for his pension to be left to her, it would aid Aviva's decision-making process by making her late husband's wishes very clear at the point of his death and could have sped up settlement of the claim. I also think Aviva have been very reasonable in trying to find some common ground with Mrs C about how the contents of Mr C's letter, or more specifically, the elements of it that relate to his pension, could be shared with them. But, ultimately, it's for Mrs C to decide what personal information she wishes, or does not wish, to share with Aviva in respect of the claim. To be very clear, I'm not forming a judgement on the contents of the letter, but I can see why Aviva would want to see that letter in helping shape their decision making, so I can't penalise them for exploring this avenue with Mrs C and I think the approach that they've taken in respect of this is reasonable.

As Mrs C didn't wish to provide Mr C's letter to the trustees, in May 2023, Aviva explained that they had decided to base their decision on who to pay the pension monies to on the information that they already held. Mrs C has said that she isn't unhappy with that outcome, but she does feel that the trustees must have been given defamatory information about her for them not to award her any of Mr C's pension. Particularly in light of the fact, she says, that they were married at the point of his passing, and given Mr C was the primary income earner and she was financially reliant on him, she felt that Aviva's trustees must have been given inaccurate information. Aviva have said that Mrs C was never excluded as a potential beneficiary, but their decision on who to allocate the pension to was based on multiple factors. To be clear, the decision of whom Aviva apportioned the pension monies to, isn't a point that Mrs C raised in her original complaint to this service, and she's said that she doesn't wish to complain about the allocation of the monies. So, I won't comment on this particular aspect any further, other than to say that Aviva have said that they would be willing to revisit their decision if Mrs C were to present any new information to them.

I've also thought about the interactions that Mrs C had with Aviva, where they asked repeatedly for information about Mr C. Aviva have already acknowledged that they erroneously asked for this information on a number of occasions, but Mrs C had already

sent them answers to their questions in December 2022 and January 2023. So, I don't see any reason to go over the events in detail that are well known to both parties. For whatever reason, Aviva's email system blocked several of Mrs C's emails, where she was responding to their requests for information. Had their system not blocked those messages, Aviva wouldn't have needed to chase Mrs C or for her to have to telephone them to replay the information that she'd already given. It seems that the same issue occurred again with the message that she sent in February 2023, but Aviva identified the problem this time. Aviva have already agreed that, had they seen Mrs C's earlier messages, the upset that they caused by asking for those details again on further occasions could have been avoided.

I don't think there's any doubt that Aviva's actions here fell short of what a consumer in Mrs C's situation would reasonably expect from them. She was clearly going through an extremely difficult period, coming to terms with the impact of losing her husband and having to repeat the same, difficult information to Aviva, which I understand caused Mrs C much anxiety and upset – Aviva have offered her £500 for the impact that their actions had on her mental health.

Taking account of all the facts on this case, I think it's right that Mrs C should be recompensed for the upset that Aviva have caused her. When this service makes an award for the trouble and upset that a business's actions have had, there's a number of factors that we have to take into account. I think it's important to recognise that putting aside the actions of Aviva, Mrs C was already dealing with a number of very traumatic and challenging events, and I can't begin to imagine how difficult things were for her. So, whilst Mrs C's circumstances were already upsetting given the events that had unfolded in her life, that isn't something that Aviva was responsible for, but importantly, her interactions with them made a very difficult situation even worse.

I think it's reasonable to conclude that Mrs C is a vulnerable consumer and the regulator, quite rightly, expects businesses to add an additional layer of care to their interactions when customers fall into this category. In addition to this, it's important to also recognise that when mistakes occur, the impact of those errors can often have a greater impact on consumers who are vulnerable because of the circumstances that they find themselves in at that particular point in their life.

I've thought very carefully about the impact that Aviva's repeated requests for the same information, that Mrs C says they had on her. Aviva didn't get things right and they've conceded as much. So, in respect of this particular issue, I'm of the view that Aviva should pay Mrs C £750 for the distress that they caused her by having to repeat the same information to them. As I've already explained though, having thought about Aviva's actions around their request to see a copy of Mr C's letter that set out his wishes prior to death, I don't think that Aviva acted unreasonably by requesting sight of that information, and I also think that they've been flexible in trying to meet Mrs C halfway by accepting the information in a format that she would be comfortable in providing. As such, I don't think it's fair to ask Aviva to pay compensation for their enquiries around the letter that Mrs C said set out her late husband's wishes. That's because I think that information is very relevant to the trustees' decision-making processes on who the potential beneficiaries of Mr C's pension are. Aviva explained that, as they didn't believe this information would be forthcoming, they didn't wish to defer making a decision on who should benefit from Mr C's pension because, understandably, they didn't wish to draw the process out any longer, which I also think had they done, would likely have made a stressful situation worse.

Aviva have committed to revisiting the decision on whom to pay the pension benefits to if, in the passage of time, Mrs C feels ready to share the letter with them. However, I appreciate that she may find the contents of the letter upsetting and as I've already

explained, ultimately, it's her decision to make if that's a path that she wishes to consider.

I therefore require Aviva to pay Mrs C £750 for the trouble and upset that they've caused her. If they've already paid the £500 that they originally offered to her in settlement of her complaint, they can take account of that payment when paying her the £750.

Responses to my provisional decision

After receiving my provisional decision, Aviva didn't provide any further comment.

Mrs C responded to the provisional decision, explaining that she had received confirmation that Aviva had received her email in February 2023, where she had provided the information that they had asked for. That meant, she said, their further chases were unnecessary.

Mrs C said this proves Aviva deliberately and knowingly acted to inflict mental, emotional and financial harm to her. Mrs C went on to say that the impact of Aviva's actions on her family's wellbeing and their attempts to discredit her were trauma triggering.

Mrs C also went on to say that if Aviva had been trying to find common ground to resolve the situation, she's confused why they decided not to return her call of 13 February 2023, when she called to speak to them. Mrs C explained that she never received a call back and that appears to have been overlooked.

In respect of the letter that Mrs C said her husband left, setting out his wishes, she explained that she feels that she has to accept the decision that Aviva weren't wrong to ask for a copy of it.

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 already explained, I very much recognise how difficult of a time that this must be for Mrs C – losing a loved one and then having to organise their financial affairs is never easy.

I've looked very closely at Mrs C's complaint again, along with her feedback to the provisional decision. And, whilst I appreciate that she feels incredibly let down by Aviva's actions, I've not seen anything to persuade me that Aviva deliberately and knowingly acted to inflict mental, emotional or financial harm to her. I can well understand how frustrated Mrs C must have been when her call wasn't returned on 13 February 2023, particularly when she'd already attempted to provide Aviva with the information that they had requested. It seems to me that Mrs C's responses to Aviva's email queries were blocked by their IT system, rather than as a consequence of a deliberate act or omission of any individual at Aviva. Aviva have conceded that they did receive Mrs C's emails, albeit their IT system automatically stopped them from reaching the intended recipient, so I don't believe they've deliberately tried to either frustrate the process or worse, discredit Mrs C. It also seems that Aviva has acknowledged that they received Mrs C's email from February 2023, albeit that the message initially 'got stuck'.

Aviva have acknowledged that Mrs C had to send them the same information on a number of occasions because their system blocked her messages. Whilst it took them some time to reach that conclusion, they have conceded that they didn't deliver the appropriate service

that Mrs C should have expected and have apologised for this.

In respect of the letter that Mrs C's husband left which, she says, set out his wishes on death – she feels that she has to accept the decision that Aviva weren't wrong to ask for a copy of it. As I've already explained, although Mrs C is well within her rights to choose not to share a copy of that letter with Aviva, in deciding not to do so, they have to make their decision of who to pay Mr C's pension monies to based on the information that they have at their disposal. Whilst Mrs C may feel that, as the spouse of her late husband, that should automatically entitle her to the pension monies, the trustees are obligated to undertake exhaustive enquiries to satisfy themselves that there's no other potential beneficiaries before distributing the funds. And, as I've already set out, this requirement isn't just limited to Aviva, and all pension trustees are required to do so.

I appreciate that Mrs C feels that Aviva failed to show any sensitivity or empathy when handling the claim on her late husband's pension. And, I know that she feels many of the questions that Aviva asked of both her and her late-husband's circumstances were irrelevant. However, from what I've seen, Aviva needed to ask those questions to help shape their decision making. But, I've not seen any interactions where Aviva failed to show Mrs C the courtesy or respect that she should expect from them.

I fully recognise how upset Mrs C is with the service that she's received from Aviva, and that's very clear from the telephone calls and correspondence that have been submitted to this service. But, having thought carefully again about the individual circumstances of this complaint, I'm not persuaded to alter my thinking on what I set out in my provisional decision. Whilst I'm upholding Mrs C's complaint because there's clear evidence that she responded to Aviva in a timely manner when they raised questions with her about her late husband's circumstances (and she had to resubmit the same information to them), I'm still of the view that it was reasonable for Aviva to ask for a copy of the letter that Mrs C explained set out her late husband's wishes.

Therefore, my final decision is that I require Aviva to pay Mrs C £750 for the trouble and upset that they've caused her. I'm satisfied that the £750 recognises the distress that Aviva have caused to Mrs C. If they've already paid the £500 that they originally offered to her in settlement of the complaint, they can take account of that payment when paying her the £750.

My final decision

I'm upholding Mrs C's complaint and require Aviva Life and Pensions UK Limited to take the action that I've set out above.

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

Simon Fox
Ombudsman