

The complaint

Mr T complains that Aviva Life & Pensions UK Limited has failed to manage the investment of his pension savings in an effective manner. And he further complains that Aviva failed to act on the written instruction he gave in July 2021 to close his pension plan.

What happened

Mr T holds pension savings with Aviva. His pension savings originated from an arrangement set up by a former employer. At its inception, the savings in Mr T's pension plan were invested in a lifestyle arrangement. That arrangement was designed to reduce the risk and volatility of Mr T's pension investments as he approached his retirement date.

Mr T's pension plan was set up with a retirement date of his 65th birthday, in June 2015. Around that time he wrote to Aviva to defer his retirement date by a year. Aviva confirmed Mr T's request, and says it made him aware that the lifestyling approach on his pension investments had ended. It says it told him that, from that time, his pension investments would be held in two of its available funds - a deposit fund, and a long gilt fund. It suggested that Mr T might want to consider his investment choices given the change in his retirement date.

The following year, Mr T reached the revised retirement date. But he didn't give any further instructions to Aviva. So, in line with its normal approach, Aviva wrote to Mr T to tell him that it had extended the retirement date on his plan by a further five years. But it reassured him that he could take his pension benefits at any time since he had passed his 55th birthday.

In 2021 Mr T complained to Aviva about a fall in the value of his pension investments. Although that complaint isn't what I am dealing with here, the outcome of it led to a new complaint from Mr T. Shortly after making the first complaint Aviva wrote to Mr T to tell him that it had further extended his retirement date to June 2025 – when he reached 75 years of age. But it again reminded him that he could take his pension benefits at any time, although no further extensions of his retirement date could be made past his 75th birthday.

In response to the 2021 complaint Aviva explained to Mr T how his pension savings were invested, and how that had impacted their value. Unhappy with that response Mr T wrote to Aviva asking it to *"Please advise what information you require from myself to progress the closure of my account"*. Following that letter, Aviva arranged for Mr T to speak with one of its advisors to start what it calls his "retirement journey" – that would have allowed him to withdraw his pension savings. Aviva says that it gave Mr T some information on the call and he ended the conversation in order to make some further enquiries about how any withdrawal would be taxed. Aviva says that it heard nothing further around that time from Mr T about restarting the retirement process.

The complaint I am dealing with here was made by Mr T to Aviva in June 2022. He complained that Aviva had failed to act on his written request from the previous year to close his pension account. And he said that the value of his pension savings had fallen still further due to Aviva's failure to manage his pension plan in a professional manner.

Aviva said that it thought it could have better communicated with Mr T in September 2021 when it provided a final response to his first complaint by reminding him of its process for taking pension benefits. It says it could have checked with Mr T whether he wanted a follow up call from its retirement team. But since it was Mr T's decision to end the initial call, it didn't think that it was responsible for any falls in the value of Mr T's pension investments. Unhappy with that response, Mr T referred his complaint to us.

Mr T's complaint has been assessed by one of our investigators. She said that she was satisfied that Aviva had managed Mr T's pension investments appropriately. And she didn't think Mr T's instruction to close his pension account was sufficient for Aviva to proceed – she thought he needed to provide further information to Aviva about how his pension benefits should be paid. And since Mr T hadn't followed up his initial telephone call with Aviva for more than a year, she thought it was reasonable for Aviva to conclude that Mr T no longer wished to proceed with taking his pension benefits at that time.

Mr T didn't agree with that assessment. So, as the complaint hasn't been resolved informally, it has been passed to me, an ombudsman, to decide. This is the last stage of our process.

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.

In deciding this complaint I've taken into account the law, any relevant regulatory rules and good industry practice at the time. I have also carefully considered the submissions that have been made by Mr T and by Aviva. Where the evidence is unclear, or there are conflicts, I have made my decision based on the balance of probabilities. In other words I have looked at what evidence we do have, and the surrounding circumstances, to help me decide what I think is more likely to, or should, have happened.

At the outset I think it is useful to reflect on the role of this service. This service isn't intended to regulate or punish businesses for their conduct – that is the role of the Financial Conduct Authority. Instead this service looks to resolve individual complaints between a consumer and a business. Should we decide that something has gone wrong we would ask the business to put things right by placing the consumer, as far as is possible, in the position they would have been if the problem hadn't occurred.

There are two aspects to Mr T's complaint – the way in which his pension savings have been invested, and what happened when he asked to close his pension account in 2021. I will deal with each in turn.

Aviva was not providing Mr T with any advice about his pension savings. So it wasn't responsible for ensuring that the way in which those pension savings were invested was suitable for Mr T's circumstances. That was essentially something Mr T needed to decide for himself. But Aviva did need to provide Mr T with sufficient information on which he could base those decisions.

As I said earlier, at the start of his relationship with Aviva, Mr T's pension savings were invested using a lifestyling approach. That was designed to move Mr T's pension savings into less volatile investments as he approached his selected retirement age in 2015. A lifestyling approach will generally assume that pension savings will be used to purchase an annuity on retirement. Annuity rates are influenced by gilt prices, so the use of gilt investment funds would generally be seen as an appropriate way of managing risk in the run up to retirement.

Once Mr T passed his selected retirement age in 2015, Aviva told him that its lifestyling approach had ended. By that time Mr T's pension savings were invested in a mix of a deposit fund, and a gilt fund. That would seem to me, for the reasons I have explained above, an entirely reasonable outcome to the end of the lifestyling journey. But since Mr T had decided to not take his pension benefits at that time, it might have been appropriate to consider an alternative investment approach – reflecting the additional investment period before pension benefits were needed. But that was a decision Mr T needed to make – and I have seen that Aviva encouraged him to consider that matter when it wrote to him in 2015.

The investments that Mr T held might not offer the same returns that might be seen from alternative approaches. And any investment returns would be reduced by the application of the fees and charges that his investments attracted. So it isn't entirely surprising that Mr T's pension savings, in more recent years, have reduced in value. But that doesn't mean that Aviva has done something wrong.

I can see that Aviva has sent Mr T regular statements, showing him both the investments that he held, and their value. If Mr T thought those investments were unsuitable for his circumstances he was able to ask Aviva to change the way in which his pension savings were invested. It wasn't for Aviva to suggest alternative approaches, or to make decisions on Mr T's behalf.

So whilst I understand why Mr T would be disappointed with the performance of his pension investments over recent years, I don't think any problems are as a result of something that Aviva did wrong. Mr T needed to choose how his pension savings were invested, and Aviva sent him regular information about those investments.

I have looked carefully at the request Mr T sent to Aviva in July 2021. There is no doubt from that request that he wanted to close his pension account. But, given the highly regulated nature of pension savings, closing a pension plan isn't as simple as for example closing a bank account.

In order for a pension plan to be closed, Aviva needs to be instructed by Mr T about what to do with the money. And the choice that would be made would generally be irreversible and potentially have significant income tax consequences for Mr T. The closure of his plan with Aviva could be effected by the transfer of his pension savings to another provider. By taking that approach Mr T would maintain the tax efficiencies of his pension savings. Or Mr T could close his pension plan by putting his pension benefits into payment. But again there are a number of choices open to him, such as purchasing an annuity, or taking a cash lump sum.

So I don't think that the instruction Mr T gave Aviva, to simply close his pension account, was sufficient to allow Aviva to proceed. Given the risks of incorrect decisions around taking pension benefits Aviva has agreed with its regulator that it will follow a set of defined steps before pension benefits are paid. Those are designed to ensure that consumers are fully informed before making any decision, and to allow consumers to consider whether the decision they are making is suitable for their circumstances, both now and for the remainder of their lives.

Mr T started that process with Aviva during a telephone call on 5 July 2021. I haven't been provided with a recording of that phone call, but as I will go on to explain, I don't think it is necessary for me to listen to what happened. The phone call was only the first stage of the retirement process. It was designed to provide Mr T with information about his options, and to allow him to seek further information, or clarifications, about taking his pension benefits. But in order for the retirement process to complete, Mr T would need to take part in a further phone discussion with Aviva, and to receive and complete some paperwork relating to the choices he had made.

Aviva says that the first call ended when Mr T wanted to seek some further information from HMRC about his income tax situation should he take his pension benefits. So I think the onus would have been on Mr T to get back in touch with Aviva when he was ready to continue the retirement discussions. It doesn't seem that is something that he did until he made his second complaint around a year later.

I have considered that it is possible that Mr T might have thought that the discussions he had with Aviva were sufficient to start the process of closing his pension account – as he had asked in his earlier email. But I don't think it unreasonable to conclude that Mr T would have been aware that he would likely need to complete some paperwork for that account to be closed. And I think he would have been expecting the payment of his pension savings, either to another pension plan that he had opened, or to him as a cash lump sum less any income tax that was due. Since neither happened, and Mr T didn't ask Aviva why no progress had been made until almost a year later, I'm not persuaded that Mr T believed the retirement process had been concluded on the initial call either.

I don't know why Mr T didn't continue his conversations with Aviva. But I also note that since his second complaint was made, despite having further discussions with Aviva and it issuing him some retirement paperwork, at the time of our investigators assessment of the complaint last month Mr T had still not closed his pension plan. So even if I thought that Aviva should have got back in touch with Mr T after the call in July 2021, I'm not persuaded it would have resulted in him taking his pension benefits any sooner.

I understand this part of my decision will also be disappointing for Mr T. But, on balance, I'm not persuaded that Aviva acted unreasonably by seeking further information and authority before it implemented Mr T's instruction to close his pension plan. So I don't think this part of the complaint should be upheld either.

My final decision

For the reasons given above, I don't uphold the complaint or make any award against Aviva Life & Pensions UK Limited

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr T to accept or reject my decision before 11 August 2023.

Paul Reilly
Ombudsman