

The complaint

Miss T complains that Aviva Life & Pensions UK Limited (Aviva) failed to provide correspondence about her pension for three years. She feels this has led to a financial loss. She's also unhappy about the way Aviva handled her complaint.

What happened

Miss T has a pension with Aviva.

Aviva said it posted annual statements to Miss T on 15 October 2019, 16 November 2020 and 30 September 2021. It said that it re-sent the 2021 statement on 9 June 2022. It said it also posted a statement on 26 October 2022.

Miss T called Aviva on 19 June 2023. She said she hadn't received any documentation from it since 2019. And that she was concerned about whether Aviva held the correct contact details for her. Miss T said she was concerned that without being sent any information, she couldn't act on it. She was also worried that her pension may have been changed without her having the chance to comment.

During the 19 June 2023 call, Miss T said that she didn't know she had the option to switch funds. She felt she'd not been given the option of doing this. She felt Aviva was responsible for this. And that it should put right any financial losses she'd suffered. Miss T also said she wanted to be called back.

Aviva issued its final response to the complaint on 20 June 2023. It said that Miss T's complaint was that she was annoyed about the volatility of her pension fund. Aviva provided Miss T with the fund factsheets for the funds she'd chosen to invest in. And explained that their performance was linked to market factors outside of its control. Aviva said that if Miss T wasn't sure if the funds she was invested in were still suitable for her, she could switch funds. It also provided Miss T with her current fund value.

Miss T called Aviva on 26 June 2023 as she was still unhappy with the performance of her funds. She said she'd not received any documentation from Aviva since 2019. And that she was unhappy with the way Aviva had worded its final response – including the use of the word “annoyed” for the way she felt about recent fund performance.

Miss T called Aviva on 28 June 2023. She felt the final response letter was unprofessional. And was unhappy with the agent she spoke to. She asked to speak to a manager. She said the same agent called her on 14 July 2023, so she'd expressed dissatisfaction about this.

Aviva issued a further final response on 14 July 2023 as Miss T remained unhappy with the performance of her pension. And hadn't liked the tone of the initial final response letter. Aviva apologised for this.

Aviva also addressed the fact that it hadn't called Miss T after it had investigated her previous complaint. It apologised for this. It said it had resolved the complaint out of hours, and didn't want to disturb her. But said it'd included contact details that would've allowed

Miss T to discuss the complaint if she'd wanted to.

Aviva also noted that Miss T had said she'd had no opportunity to make changes to her funds as she'd not received correspondence over the last three years. It said it used a third party to post the documentation it sent to its customers. And although it was sorry Miss T hadn't received anything, it said that if she'd been concerned about this, she could've contacted it. Aviva said it was Miss T's responsibility to monitor fund fluctuations and to switch funds if she wasn't happy with the ones she was invested in. It also noted that Miss T could view her policy online if she wanted to. And that its website contained daily fund valuations.

Aviva also said that although Miss T had been unhappy with the explanations it had previously provided her with, a manager had reviewed the complaint to see if there was anything further it could do. But that after that review, had felt that there wasn't anything it could add.

Miss T called Aviva again on 21 July 2023 as she felt she'd not been listened to. And that Aviva hadn't covered all of her complaint points in its final response. She said that Aviva called her back on 25 July 2023 to deal with her complaint, but she'd still had no contact from a manager. Miss T said Aviva told her she'd get the call back she'd requested.

Miss T asked for a list of available funds for her to invest in. Aviva sent this on 28 July 2023.

Miss T said an Aviva complaints manager called her on 3 August 2023 to discuss her complaint.

Miss T brought her complaint to this service on 4 August 2023. She still felt that Aviva had caused her a financial loss.

Aviva issued a further final response letter on 15 August 2023. Regarding Miss T's complaint about fund performance, it said that her pension had actually grown in value over the period from 2019 to date.

Aviva acknowledged how concerning it must've been for Miss T to not receive letters about her pension, and therefore feeling that she'd been unable to manage her pension. But said that it had no evidence that it hadn't sent the annual statements. Aviva also confirmed that the annual statements it'd sent hadn't included any opportunities to prevent Miss T's fund value dropping. It said it wasn't authorised to give investment advice and that it couldn't change Miss T's investments. It said it was Miss T's responsibility to monitor and review the suitability of her investments. And that she could do this by phone, email mailbox, website and post.

Aviva also acknowledged that Miss T had felt the previous complaint handler had done a 'shoddy job'. It accepted that the first final response letter hadn't addressed all of her complaint points. But felt these had now been addressed. It apologised for the earlier omissions. It also addressed further aspects of the way it had handled Miss T's complaint.

Aviva sent Miss T £75 compensation to apologise for not dealing with her complaint in full in the first instance. It also sent her copies of her annual statements from 2019 onwards.

Our investigator didn't think that Aviva needed to do anything further. He said it had provided evidence that it'd sent all of the annual statements to the correct address. And that it'd therefore fulfilled its responsibility. He said he couldn't look at the complaint handling aspects of Miss T's complaint, as it wasn't an activity regulated by the Financial Conduct Authority.

Miss T didn't agree with our investigator. She said that as she'd not received any paperwork, she couldn't make any informed decisions about where her pension funds were invested. She felt that Aviva hadn't addressed the issues she'd faced. And that it hadn't considered the consequences and the impact they'd had on her. She felt Aviva had failed in its duty of care to her as its customer.

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 Miss T. I'll explain the reasons for my decision.

I'd first like to acknowledge that part of Miss T's complaint was about Aviva's complaint handling. As our investigator has already noted, this service doesn't have the power to consider complaints around complaint handling. So I won't comment further on this aspect of her complaint.

I next considered if Aviva did what it should've done.

Did Aviva do what it should've done?

Aviva told this service that it sent Miss T her annual statements by post, to the correct address. It has provided this service with copies of all of the statements Miss T said she didn't get. Therefore I'm satisfied that the annual statements were sent on the dates detailed in the background section of my decision.

I acknowledge that Miss T feels that Aviva is responsible for her not receiving her annual statements. And that it must've breached its duty of care to her as its customer. But as Aviva has provided evidence that it sent annual statements correctly, I can't fairly agree with Miss T that it failed its duties. And I can't fairly hold it responsible for Miss T not receiving the correctly addressed letters. I say this because Aviva isn't liable for items lost in transit. And it can re-issue anything on request.

I also acknowledge that Miss T considers that as she didn't receive her annual statements, and therefore didn't know how her funds were performing, she held Aviva responsible for any fund losses. But I can't reasonably hold it responsible.

I say this for a number of reasons. Firstly, as I noted earlier, I don't hold Aviva responsible for her not receiving the annual statements as I'm satisfied it sent them to her when it was supposed to. Secondly, Miss T could've contacted Aviva for an update on her pension at any time. And if she'd been unhappy with the performance, she could've made a decision to change her holdings. So I consider that Miss T could've checked the performance of her investments, and then potentially decided to change how her funds were invested if she was unhappy with their performance over the period in question. And I can't reasonably hold Aviva responsible for the fact that Miss T didn't take any such actions.

I'm sorry that Miss T felt that she hasn't been listened to. I've carefully considered all of her complaint points. But I've not found any evidence that Aviva did anything wrong. Or that it failed in its duties to her.

While I can see that Miss T was concerned that she'd possibly missed out on an opportunity

from Aviva to protect her fund value, that wasn't the case. As Aviva has said, it simply administers the pension. And isn't able to give Miss T advice on her investments, or make any investment decisions for her. It's her responsibility to decide how she wants to invest her pension.

Although I acknowledge that Miss T didn't receive her annual statements from 2019, I can't fairly hold Aviva responsible for this. And, in any event, Miss T had a number of other options for accessing information about her pension if she wanted to know anything.

I acknowledge that Miss T said she only realised that she might be missing paperwork from Aviva when a colleague told her they'd received something. But if at any point she'd wanted any information about her plan she could've contacted Aviva. And if Miss T felt she wanted to consider her investments at any time she could've also contacted Aviva.

I appreciate Miss T has very limited internet access. So I understand that it's hard for her to use all of the forms of contact Aviva offers. But Aviva has made it clear that she can contact it by phone or letter, as well as other methods which require the internet. So I'm satisfied it has provided enough ways for her to get in touch with it.

As I've detailed above, I've no evidence that Aviva failed to fulfil its responsibilities in sending annual statements. So I don't uphold the complaint.

My final decision

For the reasons explained above, I don't uphold Miss T's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss T to accept or reject my decision before 14 December 2023.

Jo Occleshaw
Ombudsman