

## Ombudsman's Determination

Applicant	Mr Y
Scheme	Casio Electronics Company Limited (1982) Retirement and Death Benefits Scheme ( <b>the Scheme</b> )
Respondent	Aviva Life & Pensions UK Limited ( <b>Aviva</b> )

## Outcome

1. I do not uphold Mr Y's complaint and no further action is required by Aviva.

## Complaint summary

2. Mr Y's complaint concerns the reduction of his transfer payment between the date he requested a transfer and the date his benefits were transferred. Mr Y said that Aviva delayed the process and should compensate him for the financial loss he has suffered.

## Background information, including submissions from the parties

3. The Scheme is a trust-based occupational pension scheme. Aviva administers the Scheme on behalf of its trustee (**the Trustee**). Mr Y was an active member of the Scheme approaching his retirement date, when in April 2018, Aviva sent a retirement options pack (**ROP**) to the Trustee, to be forwarded to Mr Y.
4. Between 13 July 2018 and 25 September 2018, there was correspondence between Mr Y and Aviva, concerning whether he could enter into a drawdown arrangement.
5. On 26 September 2018, Aviva received Mr Y's request to transfer his benefits to an Aviva Self-Invested Personal Pension (**SIPP**), via the Origo system (**Origo**). The next day, Aviva sent the transfer documents to the Trustee. This included an illustration showing the transfer value of Mr Y's benefits, as at 26 September 2018, was £302,213.96. The illustration said:

"The transfer amount is not guaranteed. You could receive more or less than the amount shown."

6. On 12 October 2018, Aviva emailed Mr Y and asked him and the Trustee to read, complete and return the transfer documents it had recently sent to Mr Y's home address.
7. On 16 October 2018:-
  - Mr Y replied to Aviva and asked Aviva to confirm the address to which it had sent the transfer documents.
  - Aviva re-sent the transfer documents to Mr Y's home address. The illustration included with the transfer documents showed the transfer value of Mr Y's benefits, as at the current date, was £285,681.19. The illustration reiterated that the transfer amount was not guaranteed, and also said:

“The transfer value is the amount that would be paid if the plan were to be transferred to another provider. Please note that if the member were to decide to proceed with the transfer, the amount we would pay would be equal to the transfer value of the plan as at the date we receive all our requirements to process the transfer.”
  - Mr Y raised a complaint with Aviva concerning the delays he had experienced when trying to transfer his benefits.
8. After the relevant forms were completed, Mr Y's benefits were transferred to the SIPP on 26 October 2018. The amount transferred was £284,068.03.
9. On 22 January 2019, Aviva partially upheld Mr Y's complaint. It apologised for providing him with unclear information in the ROP issued in April 2018, and for incorrectly informing him on 20 August 2018 that he could take drawdown from his existing policy. Aviva paid Mr Y £500 for the distress and inconvenience he had suffered as a result of its mistakes.
10. On 30 January 2019, Mr Y telephoned Aviva as he did not feel it had fully replied to his complaint. On 7 February 2019, Aviva responded and said:

“I've looked again at your original complaint and the events that took place between those dates.

We received the transfer request on 26 September 2018, and issued the discharge forms to the scheme trustee the next day. This is a statutory requirement.

The transfer couldn't proceed until we received the signed forms back. These were received via email on 24 October 2018 and the transfer completed on 26 October 2018.

As such I can't see any delays on our part.”

### **Summary of Mr Y's position**

11. Mr Y reiterated the background that led to his complaint, provided emails between the Trustee and Aviva dated 24 and 25 October 2018 and said:

- The Trustee maintained that it did not receive the transfer documents from Aviva until after Mr Y had received them on 18 October 2018.
- He had suffered a loss of £16,532 because of Aviva's delay.

### **Summary of Aviva's position**

- With pensions under the Scheme held in Trust, the discharge forms had to be sent to the Trustee. Mr Y questioned this throughout October 2018, as he had not received the forms from the Trustee.
- To help Mr Y and ease his frustration, Aviva went beyond its usual process and sent the discharge forms directly to Mr Y on 16 October 2018. This was an exception that allowed Mr Y to move forward with his transfer.
- Aviva received the signed forms from the Trustee on 24 October 2018, and the transfer was completed two days later, on 26 October 2018.
- Mr Y initially complained about the time taken to transfer his benefits. Although, Aviva did not agree it had caused any delays, it agreed that it had not been as clear as it could have been with Mr Y in its communications. So, it paid him £500 for the trouble and upset caused.
- Mr Y then raised a further complaint claiming financial loss of £16,532.71. This was the difference between the £302,213.96 quoted at 26 September 2018 and the £285,681.19 that was transferred on 26 October 2018.

### **Adjudicator's Opinion**

12. Mr Y's complaint was considered by one of our Adjudicators who concluded that no further action was required by Aviva. The Adjudicator's findings are summarised below:-

- The transfer of Mr Y's benefits was not delayed because of any maladministration by Aviva.
- Aviva received Mr Y's transfer request on 26 September 2018. As the Scheme was held in Trust, Aviva sent the transfer documents to the Trustee, for the Trustee to then forward to Mr Y.
- Aviva provided a copy of the transfer documents it sent to the Trustee. The covering letter was dated 27 September 2018, the day after Aviva received the transfer request on Origo. The transfer value at 26 September 2018 was not guaranteed.

- There was no evidence indicating that Aviva did not send the transfer documents to the Trustee in late September 2018.
- When Aviva received the completed transfer documents from the Trustee on 24 October 2018, the transfer was completed two days later.
- Aviva paid Mr Y £500 for distress and inconvenience caused. But this was in respect of its maladministration prior to receiving Mr Y's request to transfer. In the Adjudicator's opinion, there was no maladministration by Aviva, in relation to Mr Y's transfer.

13. Mr Y did not accept the Adjudicator's Opinion and in response made a number of comments. In summary they were:-

- As far as he could remember he did not call Aviva on the 12 October 2018, the day he received the email informing him that the forms had been sent out to his home address. He did not follow-up that email until 16 October 2018, as he allowed time for the post.
- On 16 October 2018, Aviva informed him that the documents had been sent to his home address, but if he had not received them it could email them to him. If the person to whom he spoke had checked Aviva's system, it had to be assumed that it showed that the forms had been sent to him and not the Trustee. The first time anyone outside Aviva saw the transfer documents was when they were emailed to him on 16 October 2018.
- Aviva had not answered the Adjudicator's question of whether verbally, or in writing, it had informed him before 12 October 2018 that the discharge forms would be sent to his home address. If Aviva had not done so, why did it email him on 12 October 2018 saying it had sent the transfer documents to his home address?
- He queried if there was a note or recording of the telephone conversation he had with Aviva on 26 September 2018, when he was informed the forms would be sent to his home address.
- The Adjudicator's opinion was that the delay was not the reason the transfer payment was nearly £17,000 less than the original sum quoted. While this may be the case, without the delay, at best the original sum would have been transferred, at worst it would not have reduced by so much.

14. Aviva explained that:-

- On 12 October 2018, it received an internal telephone call from its Retirements Team to ask if the Trustee had returned the transfer documents, as Mr Y had queried this by telephone.
- It was unable to explain why Mr Y was told, in an email on 12 October 2018, that the transfer documents had been sent to his home address. However, "this one

piece of ambiguity seemed rather inconsequential to the complaint overall.” This appeared to be the only error, and a minor one during the month-long process.

- Mr Y seemed to be inferring that the entire process had taken from 26 September 2018 to 26 October 2018, because Aviva had informed him in an email that the transfer documents had been sent to his home address.
  - Aviva correctly sent the transfer documents to the Trustee on 27 September 2018. The system showed the transfer documents were generated, addressed and sent correctly.
  - Aviva had confirmed internally that it would make an exception and send the transfer documents directly to Mr Y, for Mr Y to get the Trustee to sign and return to Aviva. The transfer documents were sent directly to Mr Y on 16 October 2018, but were not returned until 26 October 2018, so could not be processed before then.
15. As Mr Y did not accept the Adjudicator’s Opinion, the complaint was passed to me to consider. I have noted Mr Y’s further comments but, I agree with the Adjudicator’s Opinion.

### **Ombudsman’s decision**

16. Mr Y believes that as a result of Aviva’s delay, the transfer value of his benefits was reduced by almost £17,000. Aviva disagrees that it is responsible for any reduction in the transfer value of Mr Y’s benefits.
17. The Scheme is held in Trust, so it would not have been appropriate for Aviva to send the transfer documents to Mr Y directly; they had to be sent to the Trustee first, then to Mr Y. Some of the paperwork had to be signed by the Trustee.
18. Aviva said that it sent the relevant transfer documents to the Trustee on 27 September 2018, the day after Mr Y’s transfer request was received. Aviva has provided a copy of the transfer documents it said it sent to the Trustee on that date.
19. I note that, in an email dated 12 October 2018, Aviva incorrectly informed Mr Y that the transfer documents had been sent to his home address. However, this does not mean that the transfer documents were not sent to the Trustee in late September 2018.
20. Although, Mr Y said that the Trustee asserts he did not receive these documents until mid-October 2018, I am not persuaded that Aviva did not send the transfer documents to the Trustee on 27 September 2018. It may be that they went astray in the post, and if that happened, it is not Aviva’s fault. Furthermore, Aviva’s transfer value illustrations in September and October 2018, made quite clear that the figures then quoted were not guaranteed.

21. Once the required information was received by Aviva in October 2018, Mr Y's benefits were transferred promptly, within two days. I do not find there was any maladministration by Aviva in relation to Mr Y's transfer request that resulted in Mr Y incurring a financial loss.
22. I do not uphold Mr Y's complaint.

**Anthony Arter**

Pensions Ombudsman  
3 November 2020