

Ombudsman's Determination

Applicant	Mr N
Scheme	Aviva Pension Plan (the Plan)
Respondent	Aviva Life and Pensions UK Limited (Aviva)

Outcome

1. I do not uphold complaint and no further action is required by Aviva.

Complaint summary

2. Mr N has complained that Aviva has not backdated his annuity to the Plan's Normal Retirement Date (**NRD**).

Background information, including submissions from the parties

3. On 20 June 2018, Aviva wrote to Mr N confirming:-
 - The NRD of the Plan was his 65th birthday on 27 November 2018, and as this was approaching it was important that Mr N understood his choices.
 - He did not have to take his annuity from the Plan at the NRD.
 - He could contact Pension Wise for free guidance or seek advice from an Independent Financial Adviser (**IFA**).
 - The Plan had a Guaranteed Annuity Rate (**GAR**) which meant Mr N could get a higher annuity from Aviva than from another company.
4. On 20 October 2018, Aviva wrote to Mr N with the current fund value of the Plan, and the available options at retirement. It reminded Mr N that he should seek guidance before deciding on which option to take as Aviva could not provide advice. The letter included the forms for Mr N to request annuity illustrations from Aviva.

5. On 23 October 2018, Aviva sent a reminder to Mr N and explained that the Plan was only set up to run to a maximum age of 75 and detailed the consequences of Mr N not contacting Aviva by his 75th birthday.
6. On 29 October 2018, Mr N contacted Aviva to request a current fund value and then sought guidance from Pension Wise on the options at retirement.
7. On the 5 December 2018, Mr N's IFA wrote to Aviva and requested details of the Plan.
8. In December 2018, Aviva replied to the IFA with full details of the Plan and a transfer value illustration.
9. In January 2019, following a request from the IFA, Aviva confirmed the tax-free cash payable under the Plan and sent a retirement pack to the IFA and Mr N.
10. On 22 January 2019, Mr N signed the application forms instructing Aviva that he wanted to take his annuity with Aviva. The IFA confirmed to Aviva that Mr N wished to benefit from the GAR under the Plan.
11. On 27 February 2019, the completed annuity application forms were received by Aviva. Mr N's annuity was put into payment on a monthly basis and paid in arrears with the first payment date being on 27 March 2019.
12. On 14 March 2019, Aviva wrote to Mr N to confirm the annuity from the Plan had been set up.
13. On 4 April 2019, Mr N telephoned Aviva as he was unhappy regarding the start date of his annuity. Aviva explained that as the application forms had been received on 27 February 2019, this was the start date used for his annuity. Mr N said that he had gone to Pension Wise for guidance which had taken a long time. He then took advice from his IFA which had also taken a long time. He asked Aviva to backdate his annuity to November 2018.
14. On 26 April 2019, Aviva replied and said:-
 - The forms allowing annuity illustrations to be requested were issued in October 2018, but the request for annuity illustrations was not received until 4 January 2019.
 - The application forms for the annuity to be set up with Aviva were not received until 27 February 2019.
 - Therefore, the delays were not due to Aviva and Mr N's annuity would not be backdated to the NRD.
15. On 29 April 2019, Mr N contacted Aviva and explained that he remained unhappy. He said that when he had first contacted Aviva, he told Aviva that he wanted to commence his annuity on the Plan's NRD.

16. In May 2019, Aviva wrote to Mr N explaining it did not uphold his complaint as the delays were down to separate organisations and there was no evidence that Aviva had agreed to backdate his annuity.

Adjudicator's Opinion

17. Mr N'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:-
- Aviva wrote to Mr N in June 2018, well in advance of the Plan's NRD.
 - Aviva was not responsible for Mr N not taking action and seeking advice earlier.
 - Aviva was not responsible for the time taken for advice to be given by Pension Wise and the IFA. Aviva had replied promptly to all requests for information.
 - Aviva could not set up the annuity until the required forms were received and this was three months after the NRD.
 - There was no evidence to support Mr N's contention that Aviva agreed to back date the annuity.
18. Mr N did not accept the Adjudicator's Opinion and the complaint was passed to me to consider. Mr N provided his further comments which do not change the outcome. Mr N said:-
- The main reason for refusing to backdate his annuity was the delay in him notifying Aviva on what he wanted to do with the Plan, but he was unable to speak to Pension Wise until the end of November 2018.
 - He should be entitled to his pension from his NRD, as he had never missed a payment and was a loyal customer.
 - He could not recall receiving a letter from Aviva informing him that his NRD would be moved if decisions and paperwork were not completed.
19. I agree with the Adjudicator's Opinion and I will therefore only respond to the main points made by Mr N for completeness.

Ombudsman's decision

20. Aviva wrote to Mr N in June 2018, with information about the Plan and explained that Mr N's NRD was approaching in November 2018, and suggested he seek financial advice before that date. I appreciate it took a long time for Mr N to receive guidance from Pension Wise and advice from his IFA, however, Aviva gave Mr N sufficient notice to take advice and reach his decision and it cannot be held responsible that Mr N did not act sooner.

21. I have not seen any evidence to indicate that Aviva agreed to backdate the annuity to November 2018, and I see no reason why it would have done given it had no control over the time taken for Mr N to seek advice and return the required application forms.
22. Aviva were unable to commence the payment of the annuity from the Plan until it received written instructions from Mr N on which option he wished to take. Aviva cannot be held responsible for the time taken by Mr N to obtain financial advice, or that the completed annuity application forms were not received until three months after Mr N's NRD. Whilst Mr N may not have missed a pension contribution, and considers himself a loyal customer of Aviva, this does not place an obligation on Aviva to backdate payment of his annuity.
23. I do not uphold Mr N's complaint.

Anthony Arter

Pensions Ombudsman
20 April 2020