

## Ombudsman's Determination

Applicant	Mrs S
Scheme	Sun Life Personal Pension Plan ( <b>the Plan</b> )
Respondent	Aviva

## Outcome

1. I do not uphold Mrs S' complaint and no further action is required by Aviva.
2. My reasons for reaching this decision are explained in more detail below in paragraphs 30 to 36.

## Complaint summary

3. Mrs S has complained that the date on which her pension is paid has varied each year and have rarely been received on time.
4. The elements of Mrs S' complaint that relate to payments made prior to 2019 fall outside my jurisdiction because they were made outside of the time limits within which legislation requires that a complaint should be brought to me to investigate and determine. I have therefore not considered these issues in my Determination.

## Background information, including submissions from the parties

5. On 12 February 1988, Mrs S took out the Plan with Sun Life which was subsequently bought out by Aviva. Aviva continues to administer the Plan.
6. On 21 December 2006, Aviva received Mrs S' signed Retirement Benefits Request Form. The Form clearly stated that the effective date of payment was 22 December 2006.
7. On 21 December 2021, Mrs S contacted Aviva to complain. She said:-
  - Her annual pension payment should be made by 21 December each year to the value of £224.32.
  - Payment was rarely, if ever, successfully made on the agreed date.

- She requested that payment be made on time, or that she be permitted to cash in the annuity.
8. On 4 January 2022, Mrs S telephoned Aviva regarding her email dated 21 December 2021. Mrs S was informed that the payment date for the policy was 22 December annually. She disagreed and asked it to check its records.
  9. On 26 January 2022, Mrs S telephoned Aviva for an update.
  10. On 27 January 2022, Aviva telephoned Mrs S and the following was discussed:-
    - There was no record of her original complaint.
    - There was no record of her emails, or her conversation dated 4 January 2022.
    - Her payment date was still considered to be 22 December annually.
    - Mrs S believed that her payment date had been changed without her consent.
  11. On 29 January 2022, Mrs S submitted her formal complaint to Aviva. She said:-
    - She had never received her annual pension payment of £224.32 on 21 December as agreed.
    - She had contacted Aviva to inform it of this issue and had been advised that it would check its records and respond accordingly.
    - She had not received a follow up call, and her payment date had not been amended.
    - When she contacted Aviva regarding the issue again, she was informed that it had no record of her previous contact and that her payment date was still set to 22 December.
  12. On 8 February 2022, Mrs S telephoned Aviva. The following was discussed:-
    - Mrs S had requested bank statements to prove that she had historically received payment on 21 December.
    - Aviva advised that it had received the relevant document that was signed by Mrs S and used to set up her annuity on 21 December 2006. Her selected retirement date was 22 December 2006.
  13. On 11 February 2022, Aviva emailed Mrs S to confirm that her payment date was 22 December each year and that this had been set up in accordance with the options selected by her at retirement. It also informed her that the policy was non-commutable, non-assignable and could not be amended.
  14. On 19 February 2022, Mrs S advised Aviva that she had reviewed her bank statements and that she had not received payment in 2013 or 2015.

15. On 21 February 2022, Aviva requested copies of the bank statements so that it could investigate the issue further.
16. On 3 March 2022, Mrs S explained to Aviva that she would only send scanned copies of her bank statements if the complaint proceeded to independent adjudication.
17. On 7 March 2022, Aviva responded to Mrs S' formal complaint. It said:-
  - The individual who dealt with Mrs S' original complaint was from a different department within Aviva, the complaint had not been recorded on the current department's system. This was why it was unable to locate her original complaint.
  - The reason she had not always received payment on 22 December was because 22 December occasionally fell on a weekend or bank holiday. In these instances, payment would be made early or late, so as to avoid these dates.
  - It confirmed that she had received payment in 2013 and 2015.
  - All payments had been due on 22 December and the relevant funds had exited Aviva's account on that date as agreed.
  - The Retirement Schedule signed by Mrs S and received on 21 December 2006 clearly stated a retirement date of 22 December.

### **Mrs S' position**

18. She had sent the Retirement Benefits Request Form on 11 December 2006, but it was stamped as received on 21 December 2006.
19. She disputed that it had taken 10 days for the letter to reach Aviva, a delay of such length was unusual at that time.
20. The previous administrator of her annuity had always made payments on 21 December. It was only Aviva who failed to make payment on the correct date.

### **Aviva's position**

21. It maintained the points raised in its complaint response but specifically highlighted that the annual payment was not being fulfilled late. The payment date, as dictated by Mrs S in her Retirement Schedule, was 22 December each year with payment variance only occurring to avoid weekends and bank holidays.

### **Adjudicator's Opinion**

22. Mrs S' complaint was considered by one of our Adjudicators who concluded that there was no maladministration by Aviva in respect of the payment of Mrs S' annual pension. The Adjudicator's findings are summarised in paragraph 23 to 29 below.
23. Aviva had provided the payment logs in respect of Mrs S' pension. Payments were generated five days prior to the associated funds exiting Aviva's account with

payment to be processed on 22 December. It was clear that each payment date showed 22 December of that year. It was equally evident that although payments were processed on 22 December each year, they occasionally landed in Mrs S' account before or after the stipulated date. On each of those occasions, 22 December fell on a bank holiday or a weekend. While Mrs S may have considered this to be a deliberate ploy by Aviva, it is an industry standard practice where payment dates fall on bank holidays or weekends. Early or late payments made in this event, are not an error but a requirement.

24. Mrs S said that she submitted her Retirement Benefits Request Form on 11 December 2006 and that it should not have taken 10 days to reach Aviva. Irrespective of the date sent and received, Mrs S would have seen that the payment date was set as 22 December and decided to sign the document anyway. If she took issue with the payment date displayed, it would have been prudent to query this before committing to the information as presented on the form.
25. Mrs S stated that previous administrators of the Plan had not struggled to make payment on 21 December, only Aviva. The payment log provided by Aviva displayed all payments made between 2006 and 2023. Every payment was shown as processed on 22 December.
26. As Aviva had acted in accordance with the Retirement Benefits Request Form signed by Mrs S and the only time payments did not arrive in her account on this date was when 22 December fell on a weekend or bank holiday, the Adjudicator considered that There was no maladministration on the part of Aviva.
27. In addition, Mrs S had referred to numerous telephone conversations in her complaint correspondence. While the recollection of the telephone conversations was not disputed, the Adjudicator was only able to consider information that was held as documentary evidence. As there were no call recordings, it was not possible to verify the topics discussed and assurances made during these telephone conversations.
28. Mrs S did not accept the Adjudicator's Opinion, and, in response she provided the following comments. In summary she said:-
  - The payment of her pension on 22 December was incorrect and had nothing to do with variations but was a result of Aviva deliberately delaying payments by a day without consultation.
  - It was sharp practice and she considered it an alteration to the Terms and Conditions agreed to since it had been put into payment, which she understood to be illegal.
  - Every time she had queried her payment date, Aviva had informed her that her understanding was incorrect. It was only during the course of the investigation that Aviva had admitted to changing the payment date without consultation, notice or consent.

29. I note the additional points made by Mrs S, but they do not change the outcome. I agree with the Adjudicator's Opinion.

### **Ombudsman's decision**

30. Mrs S complained that her pension payments were not received on the dates that she had agreed to. As explained in paragraph 4 above the elements of Mrs S' complaint in relation to pension payments made before 2019 fall outside my jurisdiction.
31. While I note that Mrs S has raised several further issues in relation to Aviva's conduct since she submitted her application to my Office the correct process is for Mrs S to raise these first with Aviva through its formal complaint procedure. I will not therefore comment further on these new issues.
32. The Retirement Benefits Request Form, received by Sun Life on 21 December 2006, clearly shows an effective payment date of 22 December 2006. While I do not doubt Mrs S' recollection of events, I can only make decisions based on the documentary evidence available to me. The annual payment date provided on the Retirement Benefits Request Form is clear and I find Aviva to have been making payment in respect of the correct date.
33. I have also reviewed both the table of annuity payment logs and the payment list screen shot provided by Aviva (see Appendix one). The information in both pieces of evidence is identical. From 2020 to 2023, 22 December fell on a weekday. Based on the documentary evidence available each of these payments were made on the correct date.
34. In 2019, 22 December fell on a Sunday. According to Mrs S' bank statement, payment was made on 20 December. As payments cannot be made on weekends or bank holidays, this payment was reasonably made early, so as to avoid any delay.
35. Mrs S claimed that Aviva, during the course of this investigation, has admitted to altering her payment date without consultation. I have seen no evidence or correspondence containing any admission of this kind. The Retirement Benefits Request Form signed by Mrs S displayed a payment date of 22 December. There is no evidence to support a view that Mrs S' payment date been manually altered from the option selected by her or that the Plan's Terms and Conditions have not been adhered to.
36. Therefore, I do not uphold Mrs S' complaint.

**Dominic Harris**

Pensions Ombudsman

26 June 2024



## Appendix One

Session A EUFS.WS

File Edit View Communication Actions Window Help

ANE0 ANNUITY PAYMENTS 09.05.2024  
 PAYMENTS LIST SCREEN PAGE 1  
 \*\*\*MORE

CLIENT NAME Jones CLIENT ID 375294

ENQ START DATE 01.01.2000 ENQ END DATE 31.12.2099

REF	PAYMENT DATE	NET AMOUNT	PRODUCTION DATE	CHQ/DCR NUMBER	PAY TYPE	STATUS CODE	STATUS DATE	UPDATE USERID
1	22.12.2023	224.32	18.12.2023	03417472	DC	PAID	18.12.2023	APSYSTEM
2	22.12.2022	224.32	16.12.2022	02121048	DC	PAID	16.12.2022	APSYSTEM
3	22.12.2021	224.32	16.12.2021	09768026	DC	PAID	16.12.2021	APSYSTEM
4	22.12.2020	224.32	16.12.2020	08360700	DC	PAID	16.12.2020	APSYSTEM
5	22.12.2019	224.32	16.12.2019	56897247	DC	PAID	16.12.2019	APSYSTEM
6	22.12.2018	224.32	17.12.2018	55374029	DC	PAID	17.12.2018	APSYSTEM
7	22.12.2017	224.32	18.12.2017	93810646	DC	PAID	18.12.2017	APSYSTEM
8	22.12.2016	224.32	16.12.2016	92199442	DC	PAID	16.12.2016	APSYSTEM

REF TO VIEW ALL \_\_ METHOD/DESTINATION \_\_ PAYMENT BREAKDOWN \_\_ PAY HISTORY \_\_  
 F1 HELP F3 EXIT F6 FIRST PG F7 UP F8 DOWN F15 RETURN TO MAIN MENU

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