

Ombudsman's Determination

Applicant	Mrs L
Scheme	Aviva Pension Plan (the Plan)
Respondent	Aviva

Outcome

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

Complaint summary

3. Mrs L has complained about Aviva's errors in the administration of the Plan. Specifically, it incorrectly recorded her address which has resulted in her concerns over data protection.
4. Mrs L also believes that her pension entitlement should be higher than quoted. She says that as Aviva made an error in recording her address, it is likely to have also made an error in recording her pension entitlement. She wants proof of the figures quoted, which Aviva has been unable to provide.

Background information, including submissions from the parties

5. In 1978, Mrs L entered into employment with Samuel Rains & Son Ltd, and was a contributory member of the Samuel Rains & Son Pension Scheme **(the Scheme)**, for the approximate 7 years she worked there. Mrs L had a Normal Retirement Date **(NRD)** of 1 May 2017. The Scheme was a Defined Benefit **(DB)** arrangement, so Mrs L's final pension was to be calculated using a set formula taking into account the years of pensionable service, and the member's final pensionable salary.
6. In 1985, Mrs L left employment with the company, and became a paid-up deferred member of the Scheme.
7. In 1999, the Scheme was wound up, and subject to a Section 32 buy-out by Aviva. The level of benefits to be paid to members upon retirement was agreed and confirmed with Samuel Rains & Son at that time, and Mrs L's pension in the Scheme was subsequently replaced by the Plan. The buy-out was a decision made by Samuel

Rains & Son, and inclusion was not optional for members, nor could any member transfer their benefits in the Scheme elsewhere.

8. In 2009, Aviva migrated all information relating to the Plan onto a new system. When migrating Mrs L's data across, Aviva incorrectly recorded the first line of Mrs L's home address, although the other parts of the address and postcode were recorded correctly.
9. On 20 November 2016, Aviva wrote to Mrs L as her NRD was approaching. The letter confirmed Mrs L's pension entitlement, information about the Plan, and explained Mrs L's options. Mrs L did not receive this letter, as a result of Aviva using an incorrect address.
10. In January 2017, Mrs L used the Pension Tracing Service to locate her Samuel Rains & Son Pension, and contacted Aviva to request details of her benefits in preparation for retirement. Aviva wrote to Mrs L on 7 February 2017, enclosing the information provided in the November 2016 letter. Aviva confirmed to Mrs L that the Scheme had been bought-out after it wound up in 1999, and replaced with the Plan, which was a deferred annuity replacement policy. It confirmed the level of annuity that had been agreed with the Scheme and advised Mrs L of her options. The letter also stated that "... All pension benefits increase in payment at 5% compound a year."
11. Aviva indicated in this letter that members had been sent information relating to the Plan at the time of the buy-out. It is unclear if Mrs L received this document, but as it would have been provided in 1999, prior to the system migration, it would have been sent to Mrs L's correct address.
12. On 10 February 2017, Aviva emailed Mrs L enclosing a retirement quote. The first line of Mrs L's address was still incorrect, although Aviva had amended its records by this time. Mrs L had also requested a copy of her contribution history in relation to the Plan, and a copy of the deferred annuity replacement policy schedule. Aviva was unable to provide a contribution history as Mrs L became a deferred member in 1985, so had not made any contributions since Aviva assumed liability for the Plan. Aviva was also unable to provide the policy schedule, stating it was not in possession of this information due to the time elapsed.
13. In March 2017, Mrs L contacted the Financial Ombudsman Service (**FOS**) to complain about Aviva. She argued that her pension entitlement should have been higher, and considered that Aviva had not been applying annual interest to her pension. Mrs L had other general concerns relating to Aviva's failure to produce contribution records and the policy schedule.
14. On 29 March 2017, following a request for information from FOS, Aviva issued its response to Mrs L's complaint. It confirmed that she was not eligible to receive annual increases on her pension, and that the figures quoted in February 2017 reflected the amount Aviva agreed to pay Mrs L on retirement when the Scheme wound up. Aviva

apologised for incorrectly recording Mrs L's address, explaining that there had been an error when it migrated the information onto a new computer system. It stated it was unable to provide the requested contribution history, as no contributions had been received since it assumed liability for the Scheme. Mrs L was offered £100 in recognition of Aviva's error. On 31 March 2017, Aviva responded to FOS confirming it had written to Mrs L regarding her complaint, and providing the requested information for an investigation to take place. FOS later advised Mrs L that, on review, the matter was not within its jurisdiction and directed her to The Pensions Advisory Service (**TPAS**). It did provide her with some informal findings, however, that the complaint could not be upheld.

15. On 30 May 2017, Mrs L complained to this Office. She said her pension plans had been 'seriously financially impacted' as a result of Aviva's failure to substantiate the figures quoted and its refusal to apply annual increases to her benefits. Mrs L noted that she had not received any correspondence for a number of years and that Aviva was unable to provide any records of the buy-out; she believed her pension should be higher.

Adjudicator's Opinion

16. Mrs L'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 briefly below.
 - There is no statutory requirement for inflationary growth to be applied to Mrs L's pension, as she left pensionable service in 1985. The requirement for annual fixed rate increases to be applied to deferred DB pensions to account for inflation was not introduced until 1986, and therefore, is not applicable to Mrs L's benefits in the Scheme.
 - Aviva has apologised for the wording in the 7 February 2017 letter, regarding the 5% increase, confirming that the letter was drafted using a template which included standard wording. This wording should not have been included in Mrs L's letter as the increases are not applicable to her pension.
 - Aviva is unable to locate the documentation relating to the buy-out, so the Adjudicator was required to make her findings on the balance of probabilities. She concluded the pension quoted to Mrs L was correct, as there was no evidence to suggest otherwise. Aviva had provided information to the Adjudicator on 22 November 2017, which appeared to confirm the figures Mrs L had been provided with.
 - Regarding that lack of correspondence since the buy-out of Mrs L's policy, Aviva has explained that annual statements are not provided for this type of plan

because the level of benefits had already been agreed at the time of the buy-out and are guaranteed.

- Any correspondence sent to Mrs L will have been sent to an incorrect address, which should not have happened and Aviva has offered £300 for distress and inconvenience. The Adjudicator noted that any further concerns regarding Data Protection, should be directed to the Information Commissioner's Office (**ICO**).

17. Mrs L did not accept the Adjudicator's Opinion and the complaint was passed to me to consider. Mrs L provided her further comments which do not change the outcome. I agree with the Adjudicator's Opinion and I will therefore only respond to the key points made by Mrs L, in her email of 22 January 2018, for completeness.

Ombudsman's decision

18. Mrs L has, in my view, produced no new evidence to support her complaint. Mrs L appears to accept that her pension is not eligible for annual increases, as her contributions ceased in 1985, before the relevant legislation was introduced. Her main issue appears to be the lack of any documentation from Aviva to prove the pension quotation sent to her is correct in accordance with her entitlement. Mrs L has argued that, as Aviva made an error in recording her address, it is reasonable to assume it could have made other errors in relation to her pension record.
19. It is important to note that the error in recording Mrs L's address only occurred in 2009, when Aviva migrated over to a new computer system. The address was recorded correctly in 1999, when the buy-out of the Plan occurred. There is no evidence to suggest that the pension entitlement would have been recorded incorrectly, as all of Mrs L's other information was correctly entered into Aviva's databases at that time. Further, the error itself consisted of incorrectly entering the first line of Mrs L's address only, not the entire address.
20. Mrs L has concluded her pension entitlement is wrong based largely on the incorrect entry of the first line of her address in 2009, which I do not consider to be a reasonable assumption. It does not automatically follow that the occurrence of an administrative error of the type that has occurred here will result in an error in the calculation or recording of Mrs L's pension entitlement and, Mrs L has no evidence to support this claim.
21. Mrs L has noted that a further error was made in Aviva's February 2017 letter which states: "... all pensions increase in payment at 5% compound a year." This has already been addressed by the Adjudicator and was the result of standard wording in a template document not being removed. This was a typographical error, and again does not mean it can reasonably be concluded that Mrs L's pension has been misquoted.

22. Whilst I understand Mrs L's desire to see evidence of the buy-out and her pension entitlement, Aviva has not retained this information due to the 19 years that have elapsed. The Adjudicator was able to obtain a benefit schedule from Aviva, dated in 2009, enclosing the same entitlement as quoted to Mrs L in February 2017. Mrs L has argued that the document is 'incomprehensible to a lay-person' and again notes the incorrect address to dismiss its reliability. However, this benefits schedule confirms to me that, on the balance of probabilities, there has been no error in this regard, as the figures are the same.
23. Aviva has apologised for its errors and offered £300 for the distress and inconvenience caused. This is a reasonable offer, and Mrs L has been advised that if she has further data protection concerns, she should contact the ICO.
24. I understand Mrs L may believe her pension entitlement should be higher, however I have no reason to doubt the benefit information provided by Aviva, which has been consistent throughout its communications with Mrs L, TPAS, and this office.
25. Therefore, I do not uphold Mrs L's complaint.

Anthony Arter

Pensions Ombudsman
21 February 2018