

Ombudsman's Determination

Applicant	Mr S
Scheme	Beamtech Software Limited Retirement Benefits Scheme (the Scheme)
Respondents	Aviva

Outcome

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

Complaint summary

2. Mr S complained that Aviva failed to provide him with information in a timely manner. He was also unhappy with the service he received and was seeking additional compensation.

Background information, including submissions from the parties

3. On 12 October 1993, Mr S was appointed as a Director of Beamtech Software Limited (**BSL**).
4. Mr S held a Flexible Executive Pension Plan (the **Plan**) under the Scheme. Mr S was enrolled in the Plan on 29 November 1993 and had a selected retirement date of 6 January 2019. The Plan was administered by Aviva. BSL was the Trustee and the principal employer of the Scheme.
5. On 28 January 2011, Mr S filed a DS01 application form to have BSL struck off the Companies House register and dissolved.
6. On 24 May 2011, BSL was officially dissolved.
7. On 20 August 2018, Mr S wrote to Aviva requesting information about access to his Plan benefits. He wanted to start claiming payment of his pension when he reached age 60 on 6 January 2019.
8. On 11 October 2018, Aviva wrote to Mr S about his approaching retirement. It informed him that the principal employer had been dissolved, and the executive plans

would have to be assigned to the individual members on wind-up before any benefits could be paid.

9. On 15 October 2018, Mr S raised a formal complaint with Aviva regarding the level of service it had provided in sending him information regarding the Plan.
10. On 19 October 2018, Aviva responded to Mr S and apologised for the delays he had experienced. It referred to its previous letter that had been issued on 11 October 2018 and explained that a loss assessment would be conducted to ensure he had not been financially impacted.
11. On 19 November 2018, Aviva confirmed that the Plan had been assigned to Mr S. A retirement illustration and forms were issued the following day.
12. On 20 November 2018, Aviva sent a benefit statement to Mr S which detailed the fund value of the Plan and informed him of the retirement options available. It also apologised for the delay.
13. On 27 November 2018, Mr S wrote to Aviva explaining that he would like to take 25% of the Plan value as a tax-free lump sum when he reached age 60 and to leave the remaining 75% of the Plan value invested for "3 or 4 years" after which he anticipated taking additional lump sums.
14. On 12 December 2018, Mr S contacted Aviva via telephone and spoke to a representative who informed him that in order to allow him to take multiple lump sums his pension would need to be transferred into a flexible drawdown policy.
15. On 13 December 2018, Aviva sent Mr S the relevant transfer forms to effect a transfer.
16. On 17 December 2018, Aviva received the completed forms from Mr S.
17. On 19 December 2018, Aviva asked the relevant department to complete the remaining pages of the transfer form.
18. On 31 December 2018, Aviva received the required documents and forms to action the transfer of the Plan into a flexible drawdown policy.
19. On 4 January 2019, Aviva transferred the funds from the Plan to the drawdown team.
20. On 8 January 2019, Aviva set up the new flexible drawdown policy, and the funds were passed to the servicing department so the tax-free lump sum could be paid to Mr S.
21. On 14 January 2019, Aviva made payment of the tax-free lump sum to Mr S.
22. On 15 January 2019, Mr S requested that Aviva conduct a loss assessment to ensure that he had not suffered any financial detriment.

23. On 1 March 2019, Aviva wrote to Mr S to inform him that it had completed the loss assessment, but it was unable to agree that any loss had occurred. However, it offered him £100 as a gesture of goodwill.
24. Mr S responded to Aviva and said that he felt between £500 and £1,000 compensation would be more appropriate.

Adjudicator's Opinion

25. Mr S' complaint was considered by one of our Adjudicators who concluded that no further action was required by Aviva.
26. The Adjudicator's findings are summarised below: -
 - Aviva did not receive Mr S' letter dated 20 August 2018 but followed its standard procedure in informing Mr S of his approaching retirement three months prior to his selected retirement date.
 - Mr S' request to put his retirement benefits into payment was fulfilled within a month and the tax-free lump sum was paid only eight days late. The Adjudicator did not consider this delay to be unreasonable given the circumstances.
 - Aviva apologised for the time it took for Mr S to receive payment of his tax-free lump sum, the various delays, and the amount of contact he was required to make before the issue was resolved. It also conducted a loss assessment to ensure Mr S was not financially disadvantaged as a result.
 - Mr S submitted that had Aviva been more efficient, the funds transferred into his drawdown policy would have been valued at £207,000 rather than £202,000. The Adjudicator was of the view that the Plan's assets would not have been disinvested until closer to 6 January 2019. The figure Mr S was referencing was from December 2018 and the Plan's value had already fallen by his requested payment date to around £202,000.
27. Mr S did not accept the Adjudicator's Opinion and the complaint was passed to me to consider.
28. Mr S provided his further comments which do not change the outcome. He said: -
 - The winding up of the Plan was delayed to some degree as Aviva did not know who the Trustee was. BSL had been dissolved in 2011 and given that Aviva was paid to administer the Plan it should have had this information.
 - He did not accept that the winding up of the Scheme should require extensive internal processing. The Scheme had a principal employer and Trustee that were the same dissolved company. The Scheme had one plan which need to be assigned to him. This was not a complex wind up.

- He was unaware that his letter dated 20/8/18 was not received by Aviva. Given the number of telephone contacts he had with Aviva in September 2018 he finds this statement very hard to believe.
- In addition to the correspondence outlined in the Opinion, he wrote to Aviva on 17 October 2018 and 23 October 2018. This demonstrates that the poor service he received should be taken into account when considering non-direct financial injustice.
- The £100 Aviva has offered does not reflect the poor service he has received. He is seeking a further payment of £400 for distress and inconvenience.

29. I note the additional points raised by Mr S, but I agree with the Adjudicator's Opinion.

Ombudsman's decision

30. Mr S contended that the winding up of the Scheme should not have taken as long as it did because BSL was both the Trustee and principal employer of the Scheme and had been dissolved since 2011. Aviva has stated that it had not previously been notified that BSL had been dissolved so its records could not have been amended before Mr S' retirement benefits were put into payment.
31. The available evidence suggests that Aviva first became aware that BSL had been dissolved around 11 October 2018 when it wrote to him about his approaching retirement. As BSL had been dissolved there were no remaining company officials who could act as a Trustee and sign any forms to settle Mr S' retirement benefits. To resolve this issue Aviva had no alternative but to wind up the Scheme and assign the Plan directly to Mr S, confirmation of which was provided to him on 19 November 2018. This means that the winding-up of the Scheme and the assignment of the Plan took just over a month, which I do not consider to be an exceptional delay.
32. Mr S said that Aviva was being paid to administer the Plan and so should have known that BSL had been dissolved in 2011. It is clear that Aviva had not been made aware of the change in circumstances surrounding both the Trustee and the principal employer until it made its own enquiries with Companies House in 2018.
33. As a director of BSL, and a member of the Plan, it is not unreasonable to expect someone in Mr S' position to have anticipated that BSL being dissolved would have an impact on the future of the Scheme and the Plan and to have informed Aviva at the time the company was dissolved in 2011. Aviva cannot be held responsible for failing to take action when they could not reasonably have been aware of the change in circumstances.
34. Mr S elected to retire on 6 January 2019, and he received payment of his tax-free lump sum eight days later. I note that Aviva conducted a loss assessment to ensure Mr S did not suffer a loss as a result of the delayed payment. While I agree there was a delay, I find it to be a limited one. The inconvenience Mr S experienced was

minimal and had he taken steps to mitigate the delay, it could have been avoided altogether.

35. I note Mr S' comments in relation to the occasions where he telephoned and wrote to Aviva which he says demonstrates the poor service Aviva has provided and which should be considered when awarding compensation for non-financial injustice. While I appreciate that the additional contact Mr S was required to make would have been frustrating, I am satisfied that Aviva has sufficiently compensated him for any shortcomings in its service and I find a higher award in recognition of the distress and inconvenience caused is not warranted in the circumstances.
36. I do not uphold Mr S' complaint.

Anthony Arter

Pensions Ombudsman
01 September 2022