

complaint

Mr B has complained that Aviva Life & Pension Limited (Aviva) didn't tell him when it changed its charging structure. Mr B says he's incurred additional costs over two years that he wouldn't have agreed to pay.

background

Mr B arranged a new stakeholder personal pension with Aviva in March 2011 for employer contributions. That was on advice from another business. Each year regular and single lump sum contributions were paid into the plan.

Following the retail distribution review (RDR) instructed by the Financial Conduct Authority (FCA) the way financial advisers are paid for their services changed.

Aviva changed their personal pension charging structure in January 2013. This affected the way the base annual fund charge (BAFC) was paid on different contributions. For new stakeholder personal pension contributions after that date the BAFC was reduced from 1.5% to 0.55%. Aviva also reduced the BAFC on single premiums to existing personal pensions from 1.5% to 0.55%. But for regular contributions it remained as before RDR – at 1.5%.

Mr B asked Aviva about the charges that applied to his stakeholder plan in February 2015. Aviva accepts that it didn't initially deal with his queries as well as it could have done. In the end Mr B did get a full explanation and a breakdown of the charges. He confirmed to Aviva that he did now understand the charges that had been applied.

But he thought there'd been a lack of transparency. And he was particularly concerned that Aviva hadn't told him about the changes resulting from RDR.

Aviva confirmed that it hadn't written to its customers about that. It said it had to be fair to advisers as well. As it hadn't been told otherwise it worked on the basis that Mr B was still relying on the original advice he'd been given. So his adviser was still entitled to commission on Mr B's regular contributions and any single contributions made before the rules changed.

Mr B referred his complaint here. He said that if he'd known about the changes he'd have made immediate changes to his pension plan. As he hadn't found out until April 2015 he'd paid higher fees than he should have done between January 2013 and April 2015 – when he had transferred to a new stakeholder plan with Aviva with lower charges.

An adjudicator looked into Mr B's complaint but didn't recommend that it was upheld. In summary she said:

- Mr B's adviser would remain eligible to receive commission for the original advice given and these payments would come from Mr B's contributions as agreed before the position changed.
- By signing the application form in 2011 Mr B agreed to the plan terms and conditions. Illustrations had been provided before and after the plan commenced which showed the costs and charging structure. It was reasonable to assume that if Mr B had any concerns about the charges he'd have raised them with his adviser at the time. And, after each single contribution, a cancellation notice and illustration was issued which

confirmed again the charging structure. The annual statements also gave details of the plan costs.

- Aviva's final response letter explained how Mr B's stakeholder pension remained partially subject to the pre RDR charges, as the regular contributions continued to be subject to the 1.5% BAFC. Aviva gave him the option to transfer into a brand new Aviva stakeholder pension plan which would mean all future contributions would be subject to the reduced BAFC of 0.55%. Mr B did that and his new Aviva plan started in March 2015.
- Because of RDR Aviva elected to reduce the charges on single contributions into existing stakeholder pension plans. That meant the costs were less than Mr B had agreed to when he took out the plan. So he hadn't suffered any financial loss – for future single contributions the charge reduced from 1.5% to 0.55%.

Mr B didn't agree. He said he hadn't been treated fairly and Aviva should have told him about the changes. The crux of the matter was that he'd taken action as soon as he'd found out about the changes. And in the interim he'd incurred higher charges than he needed to. He added that assumptions had been made about the advice he'd been given when he took out the plan.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. In doing so, I've come to the same conclusions as the adjudicator and for broadly the same reasons.

I can understand why Mr B thinks that Aviva should have told him about the changes to its charging structure. But I can also understand Aviva's commitment to advisers who recommend its products.

I know Mr B feels differently and for reasons I can understand. But, even if the changes to the charging structure had been drawn directly to his attention, I don't see that he'd have done anything different, given that, overall, the charges were reduced.

In saying that I know he's transferred to a new, lower charging, stakeholder plan. And that he thinks Aviva should refund the difference in the fees he's incurred – he'd have paid lower fees if he'd transferred earlier. But I don't think that follows. .

First, I assume that Mr B was happy with the charging structure as it originally applied – otherwise he wouldn't have gone ahead with the first stakeholder plan. He'd got advice from another business. Mr B's pointed out that we don't know what was discussed. I accept that but I think it was up to that adviser to make sure Mr B understood the charges that would apply. The charges were set out in the illustrations that he was given on and on the statements that he received after the plan had been set up. So I think it was reasonable to assume that Mr B was aware of the charges that he'd be paying and was happy to go ahead on that basis.

If he wasn't unhappy with the charges that he'd signed up to then I don't see that he'd want to change plans if he'd been told that the charges – or some of them – were going to be reduced.

I know Mr B did change his stakeholder plan. He'd queried the charges (on his existing stakeholder plan) in early 2015. And it seems that's when he found out about that the charging structure had changed. But Aviva also told him that it had a new stakeholder plan – with lower charges and offering the same fund. So Mr B transferred to that new plan.

I can see why Mr B says he's suffered a financial loss. That's on the basis that he'd have saved charges if he'd transferred earlier. But I don't think that loss follows from what he's complained about – not being told that charges had been reduced. I can't see that would have prompted Mr B to change his stakeholder arrangements.

It seems that when he queried the charges he found out that an alternative stakeholder plan was available and which would be cheaper for him. And that led him to transfer. But I don't see he's suffered any loss from the reduction in charges which he wasn't told about. His charges reduced so that's a saving not a financial loss. It's more that he's found out that Aviva now offer a cheaper alternative. But I think that could have happened at any time.

As I've said Aviva's accepted that it could have provided a better service. It's apologised and offered £150 for distress and inconvenience suffered by Mr B. Aviva's confirmed that offer remains open. So I leave it up to Mr B to decide if he now wants to accept it.

my final decision

I don't uphold Mr B's complaint and I don't make any award.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 14 January 2016.

Lesley Stead
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