DRN-4673682

The complaint

Mr B complains that Aviva Life & Pensions Limited (Aviva) made unreasonable changes to his pension plan without adequate notice, which incurred additional costs, reduced his investment diversification, and made future comparison of performance and value for money against other providers difficult.

What happened

Mr B has a workplace pension with Aviva. It wrote to him in October 2023 saying it was making changes to the index tracking fund he was invested in. It said some companies in the benchmark index tracked by the fund didn't meet it's *"Baseline Exclusion Policy"* through being involved in activities like coal, *"controversial"* weapons, and tobacco production. So, it was changing to tracking a custom benchmark excluding these companies which could incur some one-off costs, which it estimated at 0.04% or 40p for each £1,000 of investment. But there would be no other changes in the fund management or risk profile. It said Mr B need take no action unless he wished to switch into different funds by calling or going online.

Mr B wasn't happy with the changes and complained to Aviva. He said the existing fund suited his requirements and was being replaced with a more expensive solution meeting Aviva's moral position rather than its customer's needs. That it had only provided five weeks for him to assess the impact of the new policy, which might lead to rushed decisions. And that other customers had been notified about the changes in August rather than October 2023, so he hadn't been treated equally. He said by using its own benchmarks and indices it would be difficult for him to assess whether the Aviva product was good value for money.

Aviva didn't uphold the complaint. It said the terms and conditions of the plan allowed it to make changes including to the investment funds.

Mr B referred his complaint to our service. He said following the changes the fund would invest in fewer companies than previously. And investing with another provider which did fully cover the FTSE All-World Developed ex-UK index would double the investment charges. Our investigator looked into the complaint, but he didn't uphold it.

Our investigator said Aviva had introduced the *"Baseline Exclusion Policy*" in August 2023, which would come into operation at the end of November 2023. He said the terms and conditions of the plan allowed Aviva to close or make *"significant"* changes to a fund at any time and that where practicable it would give 30 days' notice of this, which it had. And that it had the right to choose which companies it wanted to be associated with, and could exclude those that didn't meet it's environmental, social and governance (ESG) criteria, and the changes didn't seem unreasonable.

Our investigator said whilst other customers might have been given more notice than Mr B had been this didn't seem to have had any negative impact as he hadn't taken any action to switch his investment funds. He said the costs involved with the changes was Aviva's top end estimate and weren't charges it would make but referred to transaction costs when shares are bought and sold. And as relatively few companies were involved it was likely that some or all of these costs would be absorbed in the normal day to day rebalancing of index tracker type funds. He said Mr B had been given notice and could have switched to avoid these charges and any concerns about the new benchmark if it wasn't what he wanted but hadn't done so.

Mr B didn't agree. He said he didn't think he had been given 30 days' notice as the expression by the end of November, could mean at any time in November. He said he didn't think Aviva had complied with the Consumer Duty requirements through not making it clear how much time he had to act. And he said it hadn't confirmed which companies had been excluded under the Baseline Exclusion Policy. But that he had *"hastily"* invested in a mining company through his ISA on 10 November 2023, as he was concerned about not having exposure to this market sector. He said since then the value of those shares had fallen, and he'd needed time to find a more diversified fund offering exposure to the mining sector.

Our investigator said Mr B like other customers had been sent a generic letter and the changes had been made at the end of November 2023, as the letter had stated. He said Mr B hadn't shown any evidence of changes made to the investment of his Aviva pension which was what was relevant. And he said there had been no change to the investment risk profile of the Aviva plan.

As Mr B doesn't agree it has come to me to decide.

What I've decided – and why

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Having done so I am not upholding the complaint.

I don't think Aviva has made any error or treated Mr B unfairly. The terms and conditions of the plan allow Aviva to make changes including to the investment funds and provide for 30 days' notice to be given. And under Consumer Duty businesses can make legitimate and reasonable changes, which I think these were. Mr B raised his complaint on 26 October 2023, having received the letter on the 23 October and the changes wouldn't be made until the end of November 2023, so clearly more than 30 days' notice was provided in this case.

Other customers might have received letters sooner than this, but this was a mass mailing exercise, potentially involving thousands of individual customers. I don't think there was an unfair delay in Mr B receiving his letter and he did have a reasonable period to consider the implications and whether he wished to switch to alternative investments instead, which he doesn't appear to have done. So, I don't think there is any financial loss or that he was put under unreasonable time pressure to review things.

Nor do I think the changes made it difficult to compare the value for money of the Aviva plan to others. But it appears there is a misunderstanding of what the fund actually invested both pre and post change. Mr B has referred to the funds original benchmark being the FTSE All-World Developed ex-UK index and moving away from this. But I don't think this is correct. The fund factsheet from March 2023 (pre change) says (my emphasis in bold),

> *"The Fund **aims** to achieve a return in line with the FTSE All-World Developed ex-UK index"*

But it clearly states the actual benchmark is the *"FTSE Developed ex UK index",* which is different with a much smaller number of constituent companies than the FTSE All-World ex UK index. Mr B's fund was a globally invested index tracker, excluding the UK, but with some sort of pre-screening already in place compared to the FTSE All-World ex UK index. The ESG changes introduced then screened out some further companies.

As of 31 July 2024, the ESG benchmark index used by the fund after the change (the FTSE Custom Developed ex UK ESG Screened Index) contained 1,880 constituent companies compared to the 1,966 in the non-screened parent (FTSE Developed ex UK) index. I think it would have been impractical for Aviva to provide a full list of those companies excluded, particularly as this would be subject to ongoing review and quite possibly out of date before the changes were made at the end of November 2023. In comparison the FTSE All-World Developed ex UK index had 4,182 constituent companies on 31 July 2024. So, what Mr B was comparing to with another provider wasn't actually the same as the Aviva fund in any case.

The actual performance of the Aviva fund can be quite easily compared to the previously used non-ESG adjusted benchmark, which is readily available online at no charge, as is the information I've quoted above. So, I think it's possible to make a value for money judgement based on that information. In terms of performance to 31 July 2024 the return on both benchmarks is very similar over one, three and five years, with the screened benchmark being fractionally ahead.

The increasing focus on socially responsible investment is driven by United Nations initiatives, regulatory oversight, and institutional market demand, and whilst not compulsory impacts all UK asset managers, not just Aviva. Mr B isn't alone in having reservations about ESG investment and an internet search shows several investment firms offer specific non-ESG investments, with financial data company, Morningstar, publishing a free report on *"Anti-ESG"* investment in June 2023. So, whilst I think his decision on his ISA investment was a separate matter, I think there was readily available information on possible alternatives that might have offered him more diversification at the time.

As I don't think Aviva treated Mr B unfairly or made any error, I can't uphold this complaint.

My final decision

My final decision is that I do not uphold the complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 11 September 2024.

Nigel Bracken
Ombudsman