

Ombudsman's Determination

Applicant	Ms S
Scheme	Aviva Personal Pension Plan - Lifetime SIPP (the Plan)
Respondents	Aviva, and Hartley-SAS Ltd (Hartley)

Outcome

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

Complaint summary

3. Ms S has complained that Aviva made an unauthorised transfer of her funds in the Plan to Hartley, following Hartley's request. She says she did not give her consent for the transfer to take place, and does not consider it appropriate that Hartley will deduct administration fees if the funds are returned to Aviva.
4. Ms S argues that Hartley also requested the transfer of another Aviva policy but this action was cancelled, therefore Aviva should have cancelled both transfers.

Background information, including submissions from the parties

5. In 2015, Ms S began making enquiries with Aviva about the possibility of transferring one of her two policies to another provider, specifically policy 8074526UL. Although in contact with Aviva about her options, Ms S did not at any stage give her express instruction to Aviva to make a transfer out. She appointed Thames Capital to act as her financial advisers in this matter.
6. On 10 December 2015, Hartley received a completed online application in Ms S' name, submitted by Thames Capital. The application instructed Hartley to request a transfer-in of both of Ms S' policies (8074526UL and SP93026560) from Aviva. The online application contained Ms S' name, address, date of birth, national insurance, and driver's licence number. The application showed Ms S' identification as having been 'Verified' for the purposes of the online anti-money laundering checks.

7. On 11 December 2015, Hartley created a request to Aviva, using Origo Options (**Origo**), to transfer both policies, in accordance with Thames Capital's instructions. Policy number 8074526UL had a transfer completion date of 23 December 2015. The funds were received and cleared by 21 December 2015 and the transfer completed on time. The funds are currently held in a Hartley SIPP.
8. Policy number SP93026560, however, had an expected transfer completion date of 26 January 2016. On 20 January 2016, Aviva received a notification to cancel this transfer, and the case was subsequently closed on 25 January 2016.
9. Ms S wrote to both Aviva and Hartley to complain that a transfer had gone ahead on policy number 8074526UL without her express consent. She raised concerns about the anti-money laundering checks, noting that her passport number had not been provided, and stated that Aviva had been aware that she was still considering her options.
10. In Aviva's response, it stated that it had received two Origo requests from Hartley to transfer the funds, and it had acted in good faith when it adhered to this valid request. Aviva did not agree that it was responsible for any error, however, it stated it would be prepared to accept the funds back and reinstate Ms S' policy within 28 days. Hartley's position was that it had received instructions from Ms S' IFA at Thames Capital to proceed with the transfers, and it had no reason to believe that Ms S had not authorised this action. It stated that, although there was no passport number, a driver's licence, along with other information such as Ms S' date of birth, national insurance, and address, was sufficient to complete the anti-money laundering checks.
11. In February 2017, Ms S' complaint was accepted for investigation by this Office. She considered that Hartley was at fault for requesting a transfer without her authorisation, and that it did not properly complete the anti-money laundering checks. Ms S stated that Hartley had ignored the cancellation instructions given. She said that Aviva was at fault because it acted too rashly in proceeding with the transfers after receiving the Origo requests, given that it knew she had not confirmed whether she wished to transfer. Ms S queried why Aviva had cancelled one transfer and not the other.

Adjudicator's Opinion

12. Ms S' complaint was considered by one of our Adjudicators who concluded that no further action was required by Aviva, or Hartley. The Adjudicator's findings are summarised briefly below.
 - It was the completion and submission of the online application by Thames Capital which triggered the events that followed. It is accepted that Ms S did not want to transfer her Aviva policies, as she was considering her options, however, Thames Capital took steps to progress the transaction on Ms S' behalf. It is unclear if Thames Capital had Ms S' express authority to do so.

- Hartley cannot be held at fault for accepting the online application form, and sending a request to transfer, as it received instructions to do so from Ms S' representative on her behalf. The information provided was sufficient for Hartley to proceed.
 - There was no reason for Aviva to believe the Origo request from Hartley was not genuine, and it could not have known that Ms S had not instructed Hartley to make the transfer request on her behalf.
13. Ms S did not accept the Adjudicator's Opinion and the complaint was passed to me to consider. Ms S 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 Ms S for completeness.

Ombudsman's decision

14. Ms S believes Hartley should not have sent Aviva a transfer request without her authorisation, however, it is clear to me that Hartley's transfer request was the result of the instructions it received from Thames Capital. It was reasonable for Hartley to follow these instructions, as all of the required information was provided. I can see no reason for Hartley to have doubted its authenticity, as it was received directly from Ms S' known financial representatives. It was not unreasonable for Hartley to assume that Ms S had agreed this course of action with Thames Capital prior to the instructions being sent.
15. With regard to the anti-money laundering checks, I consider that sufficient information was provided by Thames Capital in the online application to satisfy the money laundering requirements. Whilst no passport information was provided, a driver's licence is adequate, as it is a Government issued document. The application clearly states that the identification is 'Verified', so I do not find it necessary for Hartley to have conducted further checks, as it was reasonable to rely on the information provided by Thames Capital, and to assume it had verified its client's identity.
16. Ms S further believes that Aviva acted 'rashly', and should not have proceeded with the transfers before obtaining direct confirmation from her. I disagree; Aviva received two Origo transfer requests from Hartley, and it was reasonable for Aviva to assume these had been generated as a result of Ms S authorising and instructing Hartley to proceed.
17. I consider that both Hartley's and Aviva's actions were the result of Thames Capital's submission of the online application form, instructing a transfer of Ms S' policies. It is clear, in my view, that Hartley acted on the instructions it received, as did Aviva, therefore the error was that of Thames Capital in instructing Hartley without first obtaining authority from Ms S.

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18. Ms S considers that the issue of why one transfer was completed and the other not, had not been addressed. It is clear from the Origo request on policy SP93026560 that Aviva received a cancellation notification on 20 January 2016, 6 days before expected completion. Policy 8074526UL had already completed on 23 December 2016, so it was not possible to cancel this transfer. Ms S states Hartley ignored a request to transfer, however, the only cancellation request provided was received by Aviva.
19. Therefore, I do not uphold Ms S' complaint.

Anthony Arter

Pensions Ombudsman
21 September 2017