

The complaint

Mr G complains that Aviva Life & Pensions UK Limited paid his Uncrystallised Fund Pension Lump Sum (UFPLS) in the 2021/22 tax year.

What happened

Mr G wanted to take his pension with Aviva as a UFPLS before the end of the 2020/21 tax year, so that he would be taxed 20% on this. He was expecting to receive a higher income the following year, and so was aware that if the UFPLS was paid in the 2021-22 tax year, then he would be liable to pay 40% tax on some of this.

Aviva initially led Mr G to believe that so long as it received his paperwork before the end of the 2020-21 tax year, the payment would count as being made in that tax year, regardless of when it was actually paid.

Aviva later accepted this was incorrect advice. It sent Mr G £100 shopping vouchers as an apology. It also said it would make the payment by telegraphic transfer (TT) to ensure it was completed before the end of the 2020/21 tax year.

However, Aviva then didn't make the payment by TT. That meant that Mr G received the UFPLS in the 2021-22 tax year, and had to pay 40% tax on part of the payment rather than 20%.

Aviva paid Mr G £100 compensation, and reassured him that the matter would be reviewed by a senior manager to see what it could do regarding his tax situation. When Mr G didn't hear from Aviva again, he brought a complaint to this service.

Our investigator recommended the complaint be upheld. He thought Aviva's errors had caused Mr G to suffer a financial loss due to the payment being made in the 2021-22 tax year. He recommended that Aviva engage with Mr G to establish what his additional tax liability was, and compensate him for this. The investigator thought the £200 (by way of vouchers and cash) was reasonable compensation for the inconvenience Mr G had experienced.

Aviva didn't agree to our investigator's recommendations, and so the matter has been passed to me for a decision.

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.

I haven't been provided with all the calls between Mr G and Aviva, but I've read the call notes.

Mr G first called Aviva about the matter on 19 March 2021. Aviva says that during this call, Mr G was told of Aviva's timescales for processing the payment. It says it only received

Mr G's completed form on 24 March 2021, and so it didn't have enough time to process the payment before the end of the 2020-21 tax year (based on its normal timescales).

However, Aviva has already accepted that during this call, it led Mr G to wrongly believe that so long as the completed form was received before the end of the 2020-21 tax year, then the UFPLS would be classed as being paid in that tax year (even if it was actually paid after 6 April 2021). So I don't think the timescales given were particularly relevant, as Mr G intended to submit his completed form to Aviva before the end of the 2020-21 tax year.

Mr G says if he'd known he didn't have enough time for Aviva to process and pay the UFPLS in the 2020-21 tax year, then he wouldn't have gone ahead with his request to have the full pension paid as a UFPLS. Instead, he says he would have considered other options (such as drawdown) so that he wouldn't have had to pay a higher tax charge.

Aviva accepted it had made a mistake and reassured Mr G that it would make his payment by TT so the payment would be completed within the 2020-21 tax year. I think that was a reasonable response. Unfortunately, Aviva made a further error and failed to do this, which meant the UFPLS was paid to Mr G in the 2021-22 tax year.

I agree with our investigator that Mr G has suffered a financial loss as a result of Aviva's errors. To put matters right, Aviva should put Mr G back in the position he would have been in, if the payment had been made in the 2020-21 tax year.

I think Mr G was caused unnecessary worry and inconvenience by Aviva's errors. But I'm satisfied the £200 already paid to Mr G (by way of compensation and vouchers) was appropriate in the circumstances.

My final decision

My final decision is that I uphold this complaint. I require Aviva Life & Pensions UK Limited to do the following:

- Put Mr G back in the position he would have been in by compensating him for any additional tax he had/has to pay as a result of the payment being made in the 2021/22 tax year instead of the 2020/21 tax year (subject to Mr G providing evidence of his loss).
- If Mr G has already paid the higher tax charge, then Aviva should add 8% simple interest* to the above from the date the payment was made to the date of settlement.

*If Aviva considers that it's required by HM Revenue & Customs to take off income tax from that interest, it should tell Mr G how much it's taken off. It should also give Mr G a certificate showing this if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 28 December 2022.

Chantelle Hurn-Ryan
Ombudsman