

The complaint

Mr G complains that Aviva Life & Pensions UK Limited failed to collect the correct amount of pension contributions from his employer and failed to claim tax relief on his contributions. He also complains about poor service.

What happened

Mr G has a personal pension account with Aviva. In August 2020 he says he arranged for monthly contributions from his salary to be made directly by his employer into his pension. His employer would also make contributions to his pension.

Mr G's salary increased on 1 January 2021 and again on 1 January 2022. Mr G says he complained to Aviva when it failed to increase his contributions in January 2021 and Aviva only resolved that matter in May 2021. He says that it has taken Aviva until September 2022 to increase his contributions following his January 2022 pay increase.

Mr G wrote to Aviva in December 2021 and queried why it had not added tax relief to his contributions. Aviva asked him to provide salary details from his employer. Mr G provided these details on 1 February 2022 and he also informed Aviva at that time about his recent salary increase.

Despite several follow up requests from Mr G, Aviva did not respond. Mr G referred the matter to our service and our investigator asked Aviva to issue a final response letter.

Aviva issued its final response letter on 17 August 2022. It said Mr G had completed an application form in October 2020 but it wasn't clear from that form how his contributions were split between him and his employer. Because of this his payments had been set up as gross payments from his employer. Aviva asked Mr G to confirm that he didn't get taxed at source on his contributions. Mr G confirmed this and Aviva agreed to make the necessary changes to rectify the matter from October 2020. It also agreed to backdate the increase in his contributions from January 2022.

Aviva said that when investigating Mr G's complaint it had identified an error in how it had allocated his contributions. It said it had also rectified this matter. It noted he hadn't suffered any financial loss as a result of this error.

Aviva apologised for the errors it had made. It acknowledged there had been significant delay responding to Mr G's concerns and it offered to pay him £250 by way of compensation for the trouble and upset he'd been caused.

Mr G did not agree. Our investigator looked into his complaint. She considered the application form that Mr G had completed in October 2020. She said it wasn't clear from that form that contributions were split between the employer and the employee. She thought Aviva had acted fairly when it agreed to correct the policy and apply the tax relief to Mr G's contributions from October 2020.

Aviva had also identified it had made an error in how it had allocated Mr G's contributions. He wasn't aware of that error until Aviva had told him and Aviva had corrected the matter. Mr G hadn't suffered any financial loss or any upset because of this error. Our investigator thought Aviva had acted fairly in how it had dealt with this matter.

Aviva had provided poor service to Mr G. He had given it enough information on 1 February 2022 to resolve the issues he'd raised about his contributions, including the increase from 1 January 2022. But Aviva hadn't agreed to resolve the issues until 17 August 2022. Aviva had acknowledged the trouble and upset its delays had caused. It had offered to pay Mr G £250. Our investigator didn't think this was enough. She thought Aviva should pay Mr G £350 by way of compensation.

Aviva accepted what our investigator said. It wrote to Mr G to confirm the corrections it had made but it said there was a shortfall of £69.92 in his contributions - which it asked him to pay.

Mr G did not agree. He provided details of his historical contributions which showed a small overpayment. Aviva apologised. It accepted what Mr G had told it and asked him to confirm how he wanted it to deal with the overpayment.

Mr G did not agree that £350 was adequate compensation for the trouble and upset he'd been caused and he referred to the further error made by Aviva when it had attempted to rectify the matter. So, the complaint has been passed 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.

Mr G has raised two main issues. I'll comment on each of these separately:

Tax relief on his contributions from October 2020

Mr G and his employer filled out a form entitled "Personal Pension & GPP- Supplementary Application Form" and submitted this to Aviva in November 2020. Aviva says the form instructed it to set the contributions up as employer only.

Mr G says that the form was complicated, his employer is a small company without specialist HR and payroll specialists and Aviva should've provided advice.

I've looked at the form which was signed by Mr G and his employer in November 2020. There was a section on the form entitled "Your payments." Although information had been

populated into this section of the form, the section had been scored through. It had included information that “Your total regular payment” was £{*specified amount*} gross each month.

In the section of the form entitled “Your employer’s payments and deductions” under the sub-heading “Your employee’s payment” the following information was completed:

“Will you be deducting the employee’s payment from their pay?” [Tick] Yes

Under the subheading “Employer’s total regular payment” information was included to state the total gross monthly payment to be collected by Direct Debit. The Declaration by the employer also confirmed that the “*member’s payment*” would be “*deducted from [his] earnings, net of basic rate tax.*”

Having considered the information on the form, I think it should’ve been clear to Aviva, notwithstanding that the section about “Your payments” had been scored through, that clarification was required from Mr G. I say this because there was reference to “the employee’s payment” in the section of the form which was not scored through. In these circumstances, I think it would’ve been fair and reasonable to have expected Aviva to contact Mr G or his employer when it received the form to check the instruction. If it had done that, I think the issue regarding the split of contributions and whether Mr G was getting tax relief at source on his contributions, could’ve been resolved at the outset.

I’ve then considered whether Mr G has suffered any financial loss as a result of Aviva not contacting him at the outset. Aviva has now said it will take appropriate action to make sure Mr G’s policy reflects tax relief from 2020. And Mr G seems to accept that this resolution will prevent him from having suffered a financial loss. So, I agree Aviva should rework Mr G’s policy to take account of any tax relief he was eligible for in line with HMRC rules where applicable.

Mr G appears to have first brought this issue to Aviva’s attention in his email of 1 February 2022. It took Aviva until 17 August 2022 to revert to him about the issue and it wasn’t resolved until September 2022 – almost 8 months after he first raised the matter and only after he referred a complaint to our service. Aviva has acknowledged the “significant delay” in responding to Mr G. It has accepted that Mr G experienced trouble and upset as a result of that delay and it has offered to pay him £250 by way of compensation. I’ll comment further about whether I think that’s enough below.

Increasing his contributions from January 2022

Mr G says that his salary increased on 1 January 2022 but Aviva didn’t increase the amount it was collecting from his employer until September 2022. Aviva has now backdated the increased contributions to January 2022.

I’ve noted on the Personal Pension & GPP- Supplementary Application Form, referred to above, the Declaration which Mr G signed included the following:

“..I want my employer to inform Aviva of any changes to my payments...”

There's no evidence that when Mr G's salary increased in January 2022, his employer informed Aviva that the contributions were to change. I would've expected it to do this, so that Aviva could arrange to increase the amount it was collecting by Direct Debit each month. I've noted, however that Mr G himself informed Aviva about this matter in his email of 1 February 2022.

As mentioned above Aviva didn't respond to Mr G's email until August 2022. But, it has now agreed to rectify matters - albeit I've noted that Mr G had to go back to Aviva to correct errors in its rectification calculations. Aviva has now confirmed that Mr G has made a small overpayment and has asked him to confirm how he wants that to be dealt with.

Having considered everything here, I'm satisfied that Aviva has now agreed to resolve the two issues which Mr G brought to its attention in February 2022. It has also resolved another problem (concerning how payments were allocated) which it identified when it was investigating this matter.

I'm satisfied, on balance, that Mr G has not experienced any financial loss as a result of what happened. Aviva has agreed to take action to put him back into the position he would've been in if it had collected the correct amount of contributions from him and if it had claimed tax relief on those contributions. He also didn't suffer any loss as a result of his payments having been incorrectly allocated.

Aviva has acknowledged that there were significant delays and its service has been poor. It offered Mr G £250 for the trouble and upset he was caused as a result of the delays. Our investigator thought it should increase this amount to £350 and Aviva has agreed to do this.

Aviva has offered explanations for the delays but I don't think they are satisfactory. Aviva had responded to the initial query Mr G raised in December 2021 and asked him for further information shortly after that. He provided the additional information on 1 February 2022 but despite repeated follow up requests, Aviva failed to respond until after our investigator contacted it. In these circumstances, having thought about the significant delay here, I agree with our investigator that £250 is not enough compensation. I think it's fair and reasonable to require Aviva to increase this amount to £350 for the trouble and upset Mr G experienced.

My final decision

For the reasons given above, I uphold this complaint about Aviva Life & Pensions UK Limited.

I now require it to take the following actions:

- If it has not done so already, Aviva Life & Pensions UK Limited should re-work the contributions made to Mr G's pension for the period from October 2020 to take account of any tax relief he was eligible for in line with HMRC rules (as applicable); and
- Pay Mr G £350 by way of compensation for the trouble and upset he experienced as a result of what happened.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or

reject my decision before 28 March 2023.

Irene Martin
Ombudsman