

The complaint

Mr B complains that Aviva Life & Pensions UK Limited made an unauthorised payment to him and provided poor service when he requested regular withdrawals from his pension.

What happened

Mr B had a pension policy with Aviva. In May 2022 he contacted Aviva and asked it to pay him an ad hoc payment of £5,000 followed by annual payments of £5,000 starting mid-April 2023.

Mr B says that Aviva sent him a payment in May 2022 but it deducted tax from this payment. This meant he had to engage with HMRC to try to recoup income tax that'd been deducted.

In June 2022 Mr B says he noticed a payment of £5,000 had been credited by Aviva to his bank account. He contacted it to query this payment. It told him the payment had been made in error and asked him to return the payment – which he did. He asked Aviva to correct the information about this payment with HMRC. When he checked his records with HMRC he noticed that Aviva had not reported the payment it had made to him in June 2022. And he noted that Aviva had removed any reference to the payment it had sent him in May 2022.

Mr B says that because of the errors made by Aviva he's had to spend a lot of time chasing it to rectify matters. He also says he's experienced stress and inconvenience trying to sort matters out with HMRC. He thought Aviva should agree to allow him to transfer his pension to another provider – without him having to incur any additional penalty or expense. He complained to Aviva.

In his complaint to Aviva Mr B also raised other issues about the service he'd received. He said:

- Aviva had delayed responding to him on several occasions;
- He'd been provided with an incorrect telephone number. He'd pointed this out to Aviva but it had still not corrected the information.
- He'd told Aviva to only correspond with him by email, but it still sent him letters by post; and
- He'd experienced stress and inconvenience because of Aviva's poor service and administration.

Aviva looked into his complaint. It said it had made an error when it sent him a payment of £5,000 in June 2022. It said this had happened because Mr B had indicated, on the request form for the annual payments, he wanted annual payments to start from May 2022. However, it acknowledged that Mr B had made clear in his correspondence with it at the time that he didn't want the first annual payment to be made until mid-April 2023.

Aviva said it had rectified the matter as soon as Mr B brought it to its attention. He'd returned the payment and it had been added back to his pension. Aviva said it had looked into why this payment hadn't been reported to HMRC. It said it believed this was an isolated incident. It also acknowledged that when it tried to rectify the HMRC record it had deleted the payment it had made to him in May 2022. That was an error on its part but Aviva had

rectified this as soon as Mr B brought it to its attention. The information with HMRC had been corrected on 11 July 2022.

Aviva said it couldn't send all correspondence by email. But it acknowledged there had been service issues. It offered to pay Mr B £150 by way of compensation for the trouble, upset and inconvenience he'd experienced.

Mr B didn't agree. He thought Aviva hadn't provided him with an open and honest explanation about what had gone wrong when it had made the payment of £5,000 to him in June. He also said £150 was not enough compensation for what had happened. He reiterated that he wanted Aviva to agree that he should be able to transfer his pension to another provider without incurring any penalty or expense. He said it would cost him £300 to transfer to another provider. Mr B referred his complaint to our service.

Our investigator looked into his complaint. He said that Aviva had escalated and fixed the errors Mr B had reported to it. It had corrected the information recorded at HMRC and our investigator was comfortable that it had taken appropriate steps to address the issues which had arisen because of the payment it had made in error in June 2022. Aviva had also recognised that it had provided poor service and had offered to pay Mr B £150. Our investigator thought this was fair and reasonable. He didn't think Aviva should have to provide Mr B with further compensation if he decided to transfer his pension to another provider.

Mr B didn't agree. He said he still hadn't received any compensation from Aviva and it hadn't explained why it had made an unauthorised payment to him in June 2022 or why that payment hadn't been reported to HMRC.

Aviva confirmed to our service it had now paid £150 to Mr B.

Because Mr B didn't agree, 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.

The payment made in June 2022

Mr B says he asked Aviva to make a drawdown payment of £5,000 to him. He received this in May. He was also sent an Income Drawdown Variation form to complete at that time because he'd explained that he wanted to make arrangements for an annual drawdown payment.

He completed the form on 17 May 2022. I've looked in particular at Section 2.1 on that form. This section was to be completed if Mr B wanted a regular income to start. The form stated:

"A regular income from my account starting on (this must be a date in the future and not in the next 30 days)"

Against this Mr B entered the date as 17 June 2022.

So, although as Aviva has acknowledged, there was correspondence from Mr B which made clear he didn't want the annual payments to start until 2023, I can understand why the information on the form may explain why the additional payment was made in June 2022.

Mr B immediately contacted Aviva and returned the payment he'd received in error.

I've looked at the records provided by Aviva and I can see that it took steps to process the returned payment and apply it back to Mr B's policy as soon as reasonably possible. Having considered what happened, I'm satisfied Aviva acted fairly and reasonably when it reapplied the payment made in error back to Mr B's policy.

The information furnished to HMRC

Aviva is responsible for making real time tax reports to HMRC about payments it makes to its policyholders. Mr B asked it to correct the information it had reported about the June payment after he returned that payment. When Aviva attempted to correct this information, it appears that the May payment was removed from HMRC's records. The reason why this happened is unclear but it may have been because Aviva had not reported the payment made in June.

After Mr B contacted Aviva about these matters, I can see that Aviva did investigate what happened. It concluded that the non-reporting of the June payment had been an isolated incident and there was no systemic issue regarding its real time tax reporting. It also says it continued to monitor the situation and there were no other incidents. Having considered the information provided by Aviva, I'm satisfied on balance that it took appropriate steps to investigate what had happened when the June payment was not reported to HMRC.

Whilst I can understand why Mr B was concerned about what happened and the errors in the information reported to HMRC, it is the case that Aviva took action to try to rectify matters as soon as Mr B made it aware of the issues with the records held at HMRC. Aviva informed Mr B that it had written to HMRC on 11 July 2022 asking it to correct the records held about his payments. It also provided the HMRC reference to him.

When a business makes an error, it's not our role to fine or punish it. We look to see what steps it has taken to put things right. Aviva acknowledged its errors here and immediately investigated what had gone wrong and put additional monitoring in place. It also took steps to contact HMRC to rectify the information it held about Mr B's payments. It did that promptly and the records were corrected within three weeks of the payment that had been made in June. So I think Aviva acted fairly and reasonably.

Poor Service

Mr B has told us about the distress and inconvenience he was caused as a result of the errors made by Aviva. He also referred to other service issues he'd experienced.

Aviva has acknowledged that it shouldn't have made the payment in June 2022, and that it should have filed correct information with HMRC. It also accepted there were issues with the telephone number it provided to him. It said it had corrected these issues.

Aviva also explained why it wasn't always possible to correspond with him only by email. I think the explanations it's provided are reasonable.

Because of the trouble, upset and inconvenience which it had caused, Aviva offered to pay Mr B £150. It says it has now paid that amount to him. Aviva also confirmed that Mr B could transfer his pension to another provider and there were no exit fees, should he wish to do that.

As set out above, Aviva has made errors here and Mr B has been inconvenienced as a result. But having considered everything, I think the offer to pay him £150 for the trouble, upset and inconvenience he's been caused is fair and reasonable in all the circumstances. I'm not persuaded, on balance, it's fair or reasonable to say that Aviva should be liable for

any other costs or expenses Mr B might incur if he chose to transfer his pension to another provider.

My final decision

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

Aviva Life & Pensions UK Limited has already made an offer to pay £150 to settle the complaint and I think this offer is fair in all the circumstances.

So, my decision is that, if it has not done so already, Aviva Life & Pensions UK Limited should pay Mr B £150.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 13 June 2023.

Irene Martin
Ombudsman