

The complaint

Mrs W has complained that Aviva Life & Pensions UK Limited didn't make her aware in 2015, when she left a previous employment, that she could have continued to make pension contributions to her personal pension plan (PPP).

What happened

Mrs W had been paying pension contributions during a previous period of employment, but says that, when she left that employment in 2015, she stopped paying these as she assumed that the pension would simply "freeze". Mrs W has said that she was unaware of any other options as the pension contributions were taken from her salary automatically.

In January 2023, Mrs W received a letter from Aviva which said that her previous employer hadn't made it aware of her having left its employment – but that it was now writing to her to inform her of the options that she would have had in 2015. These were to transfer the pension to a new employer, "freeze" it, or to continue paying contributions as a PPP.

Mrs W has said that, had she known of these options, she would have continued her pension contributions, and that she felt she'd missed out on these and the associated tax relief over eight years. She therefore complained to her ex employer about this, but it responded to say that it had informed Aviva of her having left its employment and that it was up to Aviva to let her know about her options.

Mrs W duly referred the matter to Aviva, and after needing to chase it for a response, it sent her a letter apologising for originally informing her that it had been the employer's error and that it had been its responsibility to contact her about her options. It offered Mrs W £200 as a gesture of goodwill.

Dissatisfied with the response, however, Mrs W referred the matter to this service, reiterating that she felt she'd missed out on pension contributions, for which Aviva should compensate her.

Having considered the complaint, our investigator didn't think that it should be upheld. He said the following in summary:

- He wouldn't be able to ask Aviva to pay eight years' contributions to Mrs W's PPP as this would be placing in her in a better position than she would otherwise have been – Mrs W hadn't made these contributions herself, and there was no scenario in which Aviva would have made these contributions on her behalf.
- The same principle applied to any missed tax relief – contributions hadn't been paid, and so it wouldn't be fair to ask Aviva to pay this.
- It also couldn't be known with any certainty as to whether Mrs W would in any case have continued pension contributions, or how much these would have been, had she been aware of her options in 2015.

- Aviva had been sending Mrs W annual statements since 2015, from which it would have been clear that contributions had ceased. And so if Mrs W had wished to continue contributions, she could have proactively enquired about this and mitigated her position.
- Considering the guidance on our website around awards in respect of trouble, distress and inconvenience caused to consumers by businesses' errors, the offer of £200 was reasonable in these circumstances.

Mrs W disagreed, however, saying that whilst she was receiving the annual statements, she had no idea that she could still be making contributions to her PPP. She simply assumed that Aviva was sending the statements until retirement outlining the pot she held with it.

Mrs W further said that, when she'd left previous employments she hadn't been given the option to continue paying into a pension plan.

Mrs W remained of the view that she should have been informed in 2015 that she could continue her contributions. And whilst she acknowledged that the investigator couldn't quantify how much she would have paid in since, he also couldn't confirm that she wouldn't have continued paying in the same amount if she'd been made aware that this was possible.

Mrs W further said that she was frustrated that large companies such as Aviva seemed to not face the consequences of their mistakes and she remained of the view that a clear injustice had occurred here.

The investigator wasn't persuaded to change his view on the matter, however, saying that, as Mrs W would have been aware from the statements that no contributions were being made, if she was keen to continue these, it was open to her to enquire of Aviva as to whether this was possible.

As agreement couldn't be reached on the matter, it's been referred to me for review.

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.

And having done so, whilst I'm sorry to disappoint Mrs W, I've reached the same overall conclusions as the investigator, and for broadly the same reasons.

I do acknowledge Mrs W's point that the statements by themselves only provided updated information about the value of her pension pot, and didn't inform her that she could be continuing her pension contributions.

But as set out by the investigator, if Mrs W was keen on continuing contributions, it might reasonably be expected that she would have enquired as to whether she could continue.

I can see that Mrs W has said that she stopped paying into the pension plan on the assumption that the pension would "just freeze", but I think if she was interested in continuing these to ensure that her pension provision continued, it would have been open to her to enquire about this.

That's not to say that I think Aviva is blameless here. I agree that it ought to have informed Mrs W that she could have continued contributions to her PPP when she left her previous employment.

But on the basis that Mrs W didn't make contributions beyond 2015, it wouldn't be fair or reasonable to require Aviva to make these up for the "missing" eight years, along with tax relief, beyond that point. This would be placing Mrs W into a considerably better position than she would otherwise have been.

Overall, given that Mrs W made no enquires as to whether she could continue to make the contributions, instead assuming that she couldn't, I don't think the available evidence supports the position that she would, more likely than not, have continued them if Aviva had made her aware of the option.

But I would also say that, even if I were able to conclude, on balance, that Mrs W would have continued to make the contributions if she'd been made aware of that facility, the remedy wouldn't be to require Aviva to make up these contributions. Mrs W would need to make up the back payments herself, with Aviva then ensuring that the policy was reconstructed to account for tax relief and any fund growth on those contributions.

Aviva has nevertheless conceded that it should have informed Mrs W that she could continue the contributions. For the reasons given above, I don't think that it can be persuasively demonstrated that this has caused Mrs W an actual financial loss, but I do understand that she's been distressed by latterly learning that she could have continued her pension contributions.

And so I agree that an award in respect of this is warranted here. As with the investigator, thinking about the types of award which this service might make in similar circumstances, I think the offer of £200 seems reasonable.

My final decision

My final decision is that the offer made by Aviva to pay Mrs W £200 is reasonable in the circumstances. I leave it to Mrs W to decide whether to accept this.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs W to accept or reject my decision before 23 February 2024.

Philip Miller
Ombudsman