

The complaint

Mr L complains that his financial adviser, Quilter Financial Limited (Quilter), didn't notice that his pension provider – who I'll refer to as provider A – failed to set up the direct debit it'd requested into his Self-Invested Personal Pension (SIPP) for over four years. Mr L feels this is particularly negligent given he had annual reviews with his adviser over the period in question.

I understand that Mr L's adviser was an Appointed Representative (AR) of Quilter until January 2023. As the event being complained about took place in September 2019, Quilter is responsible for the complaint.

I can also see that Mr L remained with his adviser after he left the Quilter group in January 2023. Therefore Quilter isn't responsible for any of Mr L's adviser's actions after January 2023.

What happened

I understand that Mr L had worked with a specific adviser for a number of years. Although that adviser worked for a firm which I won't name in this decision, his firm was an AR of Quilter. Therefore Quilter is responsible for this complaint.

Mr L met with his adviser in September 2019. During that meeting, the adviser recommended that he transferred his two existing personal pensions to a SIPP with provider A. He also recommended that Mr L continued to make monthly contributions of £80 net, (£100 gross), into the new arrangement.

The evidence shows that Quilter correctly submitted Mr L's application and Direct Debit (DD) mandate, which he'd signed on 23 September 2019, to provider A to implement the recommendation. I understand that £106,381.54 was transferred shortly afterwards. But that provider A failed to set up the DD.

After the transfer, Mr L then had annual reviews every year with his adviser. But although the adviser provided in depth analysis of the SIPP performance, he didn't notice the lack of regular contributions until January 2024.

Mr L said that at this point, his adviser noted that it seemed that he'd not made any payments into his SIPP for quite some time. He said this was a complete shock to him. And that he'd then been able to establish, by looking at his bank statements, when the last contribution had been paid into his pension.

Mr L raised a complaint against his adviser as he felt he should've noticed that he wasn't contributing to his pension during his annual reviews. He wanted his regular payments to start as soon as possible. And wanted the lost growth on the missed payments to be restored, with tax relief. Mr L also asked Quilter to return the ongoing adviser charges he'd paid from his pension with provider A over the period the contributions weren't being paid.

Quilter raised the issue with provider A. Provider A accepted that it'd made an error when it

failed to set up the DD, which Quilter had correctly requested. It agreed to allow Mr L to pay the missed contributions into his SIPP as a lump sum payment and then to arrange for his SIPP to be put back into the position it would've been in if the DD had been set up from the start.

Quilter issued its final response to the complaint in February 2024, followed by a further response on 1 March 2024. In summary, it made the following points:

- Provider A had confirmed that the contributions would start in March 2024. And that once Mr L had made the lump sum payment to cover the missed contributions, it would then be in a position to calculate and credit the lost growth. It said that Mr L could receive tax relief, up to certain limits. Quilter therefore didn't uphold this part of the complaint, as provider A had accepted responsibility for failing to collect the contributions.
- Quilter said it hadn't found any evidence that Mr L's adviser was liable for the direct debit mandate not collecting his monthly contributions. It said provider A had accepted it was responsible for this. It also said that its files showed that Mr L had been provided with valuations and details of his pension at each annual review which it felt showed that he wasn't making any contributions to his provider A pension. It said that Mr L could stop and start contributions himself by liaising directly with provider A. And that his adviser wouldn't necessarily be alerted to that.
- Quilter said that Mr L paid ongoing adviser charges in advance to cover his annual reviews. And that as an annual review had taken place each year, it didn't agree that it should refund those charges.
- It acknowledged that it would've expected the adviser to have picked up that Mr L wasn't making regular contributions, considering that annual reviews took place each year. But it felt that Mr L should've also noticed the missed contributions through his valuations and his pension statements from provider A. It felt that these showed that no contributions had been made. It also said that Mr L could've noticed the missing contributions on his bank statements. It therefore partly upheld this part of the complaint. Quilter acknowledged the trouble and upset the issue had caused Mr L and offered to pay him £500 in order to reach an amicable solution.

Mr L agreed that annual reviews had taken place, but said he didn't keep copies of, or read, the documents Quilter gave him at his reviews. Quilter noted that all of the review letters the adviser sent to Mr L after the meetings asked him to confirm the following from the start:

'This report confirms our discussion and the course of action that we agreed. If any of the information in this report differs from your understanding of our meeting, please let me know.'

And that the letters ended with the following:

'It is important you check that all of the information I have captured is correct and that you fully understand my recommendations. If you have any questions or need more information about anything at this stage please let me know'

Mr L also said that although he'd received statements from provider A, they didn't indicate whether or not he was making regular contributions. He therefore felt he hadn't been alerted to the fact that contributions weren't being made. Quilter said that although it didn't hold copies of the annual pension statements from provider A, the provider A Illustration from 17 September 2019, which it'd provided to Mr L at the time of advice, showed that provider A

had confirmed the following:

'You'll be sent annual statements which will enable you to keep track of your product. The statement will show you all payments received into your product and payments, including charges, that have been deducted.'

It therefore felt that provider A's statements would've alerted Mr L to the issue.

Quilter also felt that, although Mr L had told it he hadn't noticed that his monthly contribution hadn't been taken from his bank account since October 2019, it was reasonable to consider that the absence of these payments from his bank account to provider A over such a long period ought also to have given him cause for concern. It also felt that it was reasonable to expect Mr L to have checked his bank account every so often. It said that he'd continued to have the benefit of those funds. Quilter felt that if Mr L had checked his account, the missing contributions would've been noticed sooner.

Overall, Quilter felt that provider A's offer would put Mr L back to the position he should now be in but for the error. It therefore felt that its offer of £500 for the trouble and upset this had caused was reasonable.

Mr L didn't agree with Quilter. He didn't think he shared any responsibility for not noticing the issue early. He said this was because he paid an adviser to manage his affairs. And that it had failed to do so. Mr L felt that the issue could've gone on for a lot longer, causing much greater issues for him.

Mr L brought his complaint to this service in March 2024. He felt that Quilter, the adviser himself, and the firm he worked for, should be held responsible for not noticing and informing him about the issue. He said that he'd missed 52 contributions because of this. And that he was now going to have to make a single lump sum payment to replace those missed payments. He said this was extremely inconvenient and that it would have a large impact on his bank account, which wouldn't have been the case if the payments had been taken correctly. Mr L said that fortunately, he was able to make the required lump sum payment. But he wanted to know what would happen if he hadn't been in this position.

Mr L felt that it must have been obvious from the fund valuations that his adviser had received for his annual reviews that his fund hadn't grown by as much as expected.

On 21 March 2024, Mr L confirmed to this service that he'd made his lump sum payment to provider A to cover the 52 missed payments on 16 March 2024.

Our investigator felt that Quilter's offer of £500 compensation was fair under the circumstances of the complaint. He said that all parties were unaware of the issue until the annual review of January 2024. He acknowledged this would've been shocking for Mr L. But said that he had to consider both the impact and the duration of the impact when assessing fair compensation.

Our investigator felt that the adviser had reported the missing contributions to provider A promptly. He also felt that Mr L had been told what had happened and what steps provider A would take to put things right. He also noted that Quilter had offered redress for its oversights by 1 March 2024. He therefore felt that Quilter had kept in touch and pursued the complaint on Mr L's behalf, and then provided its complaint response, in just over a month.

Our investigator acknowledged the stress the issued had caused and the effort it'd taken Mr L to resolve things. But felt that the £500 Quilter had offered for this was fair. He said that although it was regrettable that the adviser had failed to spot the issue, Quilter had acted

quickly on the complaint.

Our investigator didn't think that Quilter needed to return any portion of the ongoing advice charges.

Mr L didn't agree with our investigator. He still felt that his adviser, and the firm he worked for, should be required to pay compensation, as well as Quilter. He said the adviser should've spotted the issue earlier. He said that if the £500 compensation Quilter was supposed to cover compensation for all three parties, it wasn't enough.

Our investigator explained that the adviser and the firm he worked for were ARs of Quilter, which meant that Quilter effectively took responsibility for their actions for the duration of their business relationship. He also said that this service wouldn't pursue a complaint regarding the same issue against three different entities.

Mr L still wanted to know what would've happened if the error was never spotted.

I understand that in May 2024, provider A confirmed that its loss assessment showed that Mr L's SIPP would've earned a further £1,086.99 if it had set up his DD correctly from the start. And that it has paid this into Mr L's SIPP alongside the lump sum he has paid in to make up for the missed contributions. I also understand that provider A paid Mr L £500 for the distress and inconvenience it'd caused him.

In July 2024, Mr L told this service that Quilter had yet to pay him the £500 compensation it'd offered. He said that provider A had paid the £500 compensation it'd offered him for distress and inconvenience directly into his bank account before it had finalised its complaint response. He felt Quilter should've done the same.

Mr L also wanted to know what the outcome would've been if he'd not been in the position to make the lump sum payment to catch up on the missed contributions. He wondered if provider A would've been required to make them up instead. He said that if this wasn't the case, his pension fund wouldn't be put back into the same position as it would've otherwise been in. He also noted that if this had been the case, and if the error had never been spotted, the amount he'd had to live on in retirement would've been much lower than it should've been. And that this would've had a massive effect on his retirement.

Mr L also felt that all parties should've apologised to him. He said he would ask his adviser for a direct apology. He also noted that he was the one who had actually discovered how many payments had been missed. He felt a fully professional adviser should've noticed this much, much sooner.

Mr L also told this service how exasperated he'd become by the issues he'd faced. He said he'd spent many hours writing emails, filling out complaint forms and conducting telephone conversations. And therefore felt that the £500 compensation Quilter had offered him wasn't enough. But he also said he wasn't expecting, or seeking, compensation for something that might've happened, but did not.

As Mr L didn't agree, the complaint has come 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.

Having done so, I'm going to uphold it. But I agree with our investigator that Quilter has

made a reasonable offer to put things right. And I'm not going to ask it to take any further steps than it has already offered to take. I know this will be disappointing to Mr L. I'll explain the reasons for my decision.

I've seen how strongly Mr L feels about this situation – he has made a number of detailed points and submissions to support his complaint, which I have read and considered in their entirety.

But we're an informal dispute resolution service set up as a free alternative to the courts. So in deciding this complaint I've focused on what I consider to be the heart of the matter rather than commenting on every issue in turn. This isn't intended as a discourtesy to Mr L. Rather it reflects the informal nature of our service, its remit and my role in it.

The crux of Mr L's complaint is that he believes that his adviser, the firm his adviser works for directly, and Quilter, should apologise to him and each make compensation payments to him for the distress and inconvenience caused by the adviser's failure to notice that the DD hadn't been set up for so long.

This service has explained to Mr L why Quilter is the only business responsible for this complaint. And that therefore only one compensation payment can be payable for its adviser's failings. It's also explained that we wouldn't usually force a business to apologise. I'm satisfied that this is fair and reasonable.

I first considered who was responsible for failing to notice the missing DD payments.

Is Quilter solely responsible for failing to notice the missing DD payments?

I agree with Mr L that he had every right to assume that his requested DD had been correctly set up. I can see from the evidence provided that the adviser correctly requested the DD be set up. But provider A failed to do so. It accepted responsibility for that failure. And corrected the financial implications of that error. It has also paid Mr L £500 to apologise for the distress and inconvenience caused. Therefore, I'm satisfied that Mr L's SIPP is back into the position it would've been in, but for provider A's error.

Turning to Quilter's role in the identification of the error, I can see that Quilter – as it is responsible for the adviser here – has acknowledged that it would've expected the adviser to have picked up that Mr L wasn't making regular contributions earlier than he did, given he held annual reviews. It also acknowledged that this had caused Mr L distress and inconvenience. And therefore offered him £500 compensation for this.

I appreciate why Mr L feels that his adviser should've spotted provider A's error much sooner. And I do agree that it might've been possible for the adviser to have noticed, based on the information he had at each annual review. But based on what I've seen, I'm not persuaded that the information available to the adviser at those times should've definitively led to him noticing the missing contributions.

I say this because the level of contributions was relatively small against the size of the existing fund – that is, £1,200 each year after tax relief, whereas the fund itself was well over £100K. Therefore I don't consider that it would've been easy to identify that the contributions weren't being paid, as they only represented around 1% of the fund value each year.

I do however agree that the adviser could reasonably have noticed the issue earlier. But I also think that Mr L could've reasonably noticed the issue sooner.

I say this because Mr L has told this service that although he didn't notice at the time, his

bank statements, which he retained over the period in question, showed that the last payment taken from his bank account was on 1 October 2019, to his original pension plan, and that no payments had been made to the new pension fund.

I do appreciate that Mr L wasn't the financial expert here, so I understand why he relied on his advisers to notice this error. But I consider that Mr L could've noticed that his bank balance was steadily increasing over time.

I say this because the 52 months of missed contributions added up to a significant amount compared with Mr L's monthly earnings over the period in question. Therefore I think it would be reasonable to expect him to have noticed that his balance was bigger than he expected, and that it was growing over time.

I have also considered Mr L's "what if" question – he wanted to know if provider A and/or Quilter would've needed to compensate him further if the error had gone on for even longer, and if he couldn't have afforded to pay a lump sum to cover the missed contributions. He felt that the issue could've gone on for a lot longer, and that this could've caused significant issues for him in his retirement.

I can see that this service has already explained to Mr L that we look at the facts of the case, not theoretical scenarios. And that we aim to ensure consumers are put back into the position they would now most likely be in but for the error. We said that we felt Mr L was already in that position after provider A's redress.

Mr L has told this service that it's extremely important to him to get an answer to the specifics of his question. But I can't reasonably tell him what I might've recommended the redress to be if the facts of the case had been different. I say this because I would need to know exactly what the facts of the alternative scenario were before I could fairly and reasonably assess the correct redress.

Overall, I'm of the view that both Mr L and his adviser could've spotted provider A's error sooner.

I next considered Mr L's question about Quilter's compensation offer.

Should Quilter have paid Mr L the £500 compensation it offered him without prejudice?

There is no requirement for Quilter to have already paid the £500 compensation it offered Mr L, despite the fact that provider A chose to.

I say this because, when Mr L referred his case to this service, he effectively indicated that he didn't accept Quilter's offer. Quilter could then reasonably wait for my final decision before paying any compensation I decide needed to be paid.

Although Quilter has taken a different approach to paying the offered compensation to Mr L than provider A, I can't reasonably say there is anything wrong with that approach.

I've gone on to consider whether Quilter should be required to refund the ongoing adviser charges it took over the period in question.

Should adviser charges be refunded?

I can see that Mr L considers that as his adviser didn't notice provider A's error for so long, Quilter should refund the ongoing adviser charges he paid.

I understand why Mr L is disappointed that his adviser didn't spot this error for so long. But the evidence shows that the ongoing adviser charges covered the cost of the annual reviews, which were provided. It also shows that the adviser carried out the work I would've expected for each of those reviews. Therefore, I can't reasonably say that the ongoing adviser charges should be refunded.

I finally considered the impact of the failure to spot the error for so long. And the distress and inconvenience this has caused Mr L.

Distress and Inconvenience

Mr L told this service how frustrating and time-consuming it'd been to sort this issue out. He therefore felt that £500 compensation from Quilter wasn't enough. He also said that he had to make a single lump sum payment to replace those missed payments, which had been extremely inconvenient, and had had a large impact on his bank account.

While I can see that the error started in September 2019, due to a mistake by provider A, it wasn't identified until January 2024. Once the error was identified, the evidence shows that the adviser reported the missing contributions to provider A promptly. And that it told Mr L what had happened and what steps provider A would take to put things right quickly.

I can also see that after provider A confirmed to Quilter that it would put Mr L's SIPP back into the position it would've been in, but for its mistake, Quilter promptly offered compensation for its own failings. It didn't need to offer financial redress, because provider A had accepted full responsibility for any financial loss.

I've considered whether Quilter should compensate Mr L for the loss of expectation on the savings he'd built up in his bank account. But I'm not persuaded that there was a loss of expectation here. I say this because I don't consider that Mr L ever thought he had over £4,000 more in savings than he actually should've had.

I do appreciate how much of a shock it must've been for Mr L to find out about the error, and how long it had been going on for. And I can see that it's taken Mr L some effort to sort things out. But I agree with our investigator that the £500 Quilter has offered is fair under the circumstances.

As I understand Quilter has yet to pay the £500 compensation it's offered Mr L, I uphold the complaint.

Putting things right

I require Quilter Financial Limited to pay Mr L £500 compensation for the distress and inconvenience it has caused. If it has already paid Mr L this compensation, it need take no further action.

My final decision

For the reasons set out above, I uphold Mr L's complaint. Quilter Financial Limited must take the action detailed in "Putting things right" above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 16 September 2024.

Jo Occleshaw

Ombudsman