

## **The complaint**

Mr A complains that he has lost out financially because Skipton Building Society ("Skipton") gave him incorrect advice about how much he could invest in his pension scheme to attract tax relief.

## **What happened**

Mr A took financial advice from Skipton in November 2022 and was sent a Suitability Report in December 2022. It is not in dispute that Skipton provided advice on the amount of money Mr A could invest in his pension, based on his net relevant earnings ("NRE"). Skipton calculated Mr A's NRE and advised him he could pay a certain amount into his pension and get tax relief.

Mr A accepted Skipton's recommendation. Mr A later learnt that due to a miscalculation he had exceeded his NRE by £7,685.72 net and wasn't eligible to claim the 20% tax relief on top.

After discussions between Skipton and Mr A in December 2023, Mr A asked Skipton to provide the calculations it had used to calculate his NRE. Skipton provided these a few days later. Towards the end of January 2024 Skipton accepted there had been a miscalculation. Mr A didn't accept Skipton's explanation or loss calculations.

In January 2024, Mr A submitted his tax return, and ended up paying a tax charge because of his excess net payment. He had to pay the 20% tax on top of the £7685.72 payment paid into his pension (£1921.43) because his net contribution did not attract tax relief. Skipton and Mr A tried to resolve things between them. To begin with Skipton and Mr A didn't agree as to the amount of the excess payment. Skipton later agreed to use the figure put forward by Mr A of £7,685.72 net as the excess payment.

Mr A and Skipton were still unable to agree the basis upon which to calculate financial loss and other compensation. Mr A took the view that Skipton should pay him £1921.43, the amount of tax he had to pay as a result of his excess payment into his pension plan, and £300 to reflect the trouble and upset caused as a result of Skipton's incorrect advice.

Skipton said that the way Mr A calculated the redress payable would place him in a more favourable position than he would have been in, because Mr A was not entitled to claim tax relief on the excess payment. Further, that had the miscalculation not occurred, Skipton would have advised him to invest in a more tax efficient alternative, such as an ISA. Skipton said that if he had invested his money into an ISA, there would have been no tax payable on exit, unlike with a pension.

Skipton calculated the extra tax it said Mr A would end up paying. It said this was £1,152.86. Skipton offered to pay him this amount to compensate him for his loss. Skipton also offered to pay him £297.14 compensation for his distress and inconvenience (£1450 in total).

Our investigator looked into Mr A's complaint he noted that Skipton agreed to use Mr A's net overpayment figure to base redress on. Our investigator concluded that Skipton's offer was fair and reasonable. Mr A disagreed.

I issued a provisional decision on Mr A's complaint in September 2024 upholding it and indicating that I was minded to order Skipton to pay Mr A £1921.43 and £300 for the distress and inconvenience caused.

Mr A accepted my provisional decision. Skipton agreed to accept the decision but stated that it considered that its original offer was fair and reasonable.

Mr A's complaint comes to me for a final 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.

It is not in dispute that a mistake was made by Skipton, which led to Mr A making a net payment into his pension scheme which did not attract tax relief. This decision focuses on the fairness and reasonableness of the redress offered by Skipton in the context of these accepted facts.

Mr A made a net payment of £7685.72 into his pension plan above his NRE leading to an extra 20% tax charge of £1921.43 which had to be covered by him.

I think it most unlikely that Mr A would've paid this net amount into his plan if he had been given correct advice by Skipton. I say this because one of the reasons why Mr A was seeking financial advice was for tax efficacy. Skipton also accepted that if it had realised Mr A would not get tax relief on this net payment, it would not have recommended he made this payment into his pension.

In effect, Mr A had to pay £9607.15 into his pension plan rather than £7685.72 to get the same amount of pension benefit at the end. Skipton's position is that Mr A would be put in a more favourable position if it repaid him the additional £1921.43 he has paid, either because he was not eligible for the tax relief in the first place and/or they would have advised him to invest differently.

However, Skipton did not advise him to invest differently, so that argument falls away. He is in the position he is now because Skipton made an error. He is in a position where now over £9,607.15 of his money is tied up in a pension, and subject to taxation on payment. Had Mr A been given correct advice from Skipton, I think it likely that he would have acted differently.

Skipton said Mr A might have been advised to invest in an ISA. He wasn't so advised. Also, Mr A said he had already utilised his annual ISA allowance, so that option wasn't available to him, at that time, in any event.

The £9607.15 is now in Mr A's pension and will incur a tax charge at some point in the future when it comes into payment. That would be the same irrespective of whether the gross sum received tax relief at the point it was paid in.

I think Mr A has ended up paying an additional £1921.43 into his pension due to Skipton's actions, for the same benefits at the end. It seems to me Mr A had little option but to pay the additional tax charge once he had paid the net amount in. I therefore order Skipton to pay Mr A this additional amount of tax he had to pay due to Skipton's error.

I have taken into account the compensation offered for distress and inconvenience. Based on the level of awards made by this service for errors of this type, where the complainant has to go to a degree of effort to get the business to accept the extent of their wrongdoing, I consider that an amount of £300 is fair and reasonable in the circumstances. In reaching this decision, I have also taken into account that until redress is paid, Mr A has ended up having to pay the tax charge to HMRC himself, leaving him out of pocket.

### **Putting things right**

I order Skipton to pay Mr A £1921.43 being the additional amount Mr A had to pay to HMRC due to Skipton's error and £300 for the distress and inconvenience caused arising from that error.

### **My final decision**

I uphold Mr A's complaint and order Skipton Building Society to put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 19 November 2024.

Kim Parsons  
**Ombudsman**