

The complaint

Mr A complained that Zurich Assurance Ltd (Zurich) did not claim tax relief from HMRC on his pension contributions, leading to a financial loss.

He would like Zurich to compensate him for this loss, including lost investment growth.

What happened

I have reviewed all the evidence provided by both parties. I have not reproduced all of this in this decision but concentrated on what I believe to be the most relevant parts

Mr A entered into a retirement annuity contract (RAC) – a type of personal pension - in April 1988 with Zurich. Initially, he made regular contributions into the plan before stopping them at some point before April 2013.

On 20 March 2018 Mr A made a single lump sum contribution of £10,000 into his RAC plan. He expected that Zurich would claim basic rate tax relief from HMRC which would be paid directly into his plan to add to his benefits. Mr A also informed his accountant that he had made the contribution so that it would be included in his income tax return for the year ending April 2018. The accountant included this figure on the basis that tax relief had been added to his pension by Zurich, rather than it being a contribution to an RAC.

On 8 March 2024 Mr A complained to Zurich as he discovered that no tax relief had been added to his plan as a result of the single contribution he had made some six years previously. In his complaint, Mr A said that he had never been made aware that pension relief at source (PRAS) would not be applied to his RAC.

Zurich wrote back to Mr A on 27 May 2024. In this letter it said:

Pension contributions to this type of plan are paid gross of tax, and any tax relief is claimed through an individual's annual tax return. I'm sorry to say we are unable to apply the tax relief directly to the [RAC] or claim the tax relief on your behalf, and this would have been the case at the time your [RAC] was sold. PRAS wasn't introduced by the Government until after your [RAC] had started.

Zurich went on to say that if Mr A was unhappy about the advice he had been given when he started the RAC that he should complain separately about that advice. Mr A subsequently complained about the advice he had been given and that he had not been informed in 2018 that he would need to reclaim the income tax relating to his single contribution payment.

Unhappy with this response, Mr A contacted Zurich once more on 11 June 2024. During this call he once again raised the issue that he had not been told of the need for him to claim income tax relief and said that his accountant had received an email of 15 May confirming that Zurich would pay PRAS into his pension plan.

Zurich issued a final response to Mr A's complaint to it on 4 July 2024. In this response it reiterated that it had not claimed income tax relief on any of the contributions he had made

to his RAC. It also said that in respect of the single contribution payment made in 2018 it had written to provide him with a receipt which confirmed:

You should keep this receipt in a safe place with your other plan documents, as you may need to use it to claim income tax relief for this payment from Her Majesty's Revenue and Customs, for the pension input period from 6 April 2017 to April 2018. However, you should note that the receipt does not guarantee that the payment will qualify for relief.

Zurich also said that it had been unable to find an email to Mr A's accountant relating to PRAS on his RAC.

The complaint about the advice he had received was handled by an IFA firm which had taken on responsibility from Zurich in 2005. It wrote to Mr A on 25 June 2024, not upholding his complaint and saying that any complaint about the initial sale should be directed to Zurich. In terms of the single contribution payment it said:

[We] have found no evidence that there is an ongoing advice contract between yourself and [IFA]. Likewise, [IFA] has confirmed that [IFA] are not in receipt of any trail commission from Zurich in relation to your Zurich pensions.

It went on to say that [IFA] had:

not analysed [Mr A's] existing pensions and was not aware of the specific details of these pensions. Therefore, [We] believe that one can reasonably deduce that [IFA] was not in an informed position to be able to consider offering you the information regarding reclamation of tax relief.

and that it had no evidence to suggest that Mr A had asked [IFA] about reclaiming income tax on the contribution.

Unhappy with this response, Mr A brought his complaint about Zurich to this service. He did not bring a complaint about the IFA firm.

Our investigator reviewed all the evidence and formed the view that Mr A's complaint about Zurich should not be upheld.

Mr A remained unhappy with this and so the complaint has been passed to me to make a final decision.

Before making this decision I asked both Mr A and Zurich to provide me with some further information, which both have now done.

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 have reached the same conclusion as our Investigator and agree with our investigator that Mr A's complaint should not be upheld.

I can appreciate that this will be disappointing to Mr A, so I will explain now how I have reached my conclusions.

Firstly, I think it's important to reflect upon the role of this Service. Our role is to impartially review the circumstances of a complaint and make a decision on whether a business has

made errors or treated a customer unfairly. Where it has, we expect a business to fairly compensate a customer for any financial loss and any distress and inconvenience they have suffered as a result. It's also important to note that I must consider the regulatory environment in place at the time Mr A took out his RAC. This is of particular importance in this case, as The Financial Services Act 1986 came into force on 29 April 1988, which was after Mr A's pension started. Given this, advisers were only bound by common law requirements.

Having established this, I'll now turn to look at the substance of Mr A's complaint.

I've carefully considered all the evidence provided by both Mr A and Zurich. The key aspect of this complaint is related to the type of personal pension plan that Mr A held with Zurich. This was a retirement annuity contract (RAC) which is a type of contract which was typically seen to be suitable for the self-employed or other people who did not have access to an occupational pension scheme (OPS).

One of the key features of RAC plans was that pension contributions had to be paid 'gross' to RACs, meaning no tax relief was added and all tax relief had to be claimed back through the policyholder's annual income tax return. When personal pensions were introduced in July 1988, RACs stopped being sold, and Pension Relief at Source (PRAS) was subsequently introduced.

This means that Mr A would not have received tax relief payments into his RAC automatically, but would always have had the responsibility to claim the tax relief himself. I appreciate that Mr A felt that this fact was not made clear to him at the time, but this would nevertheless have always been the case. Given this, I can't see that Zurich has made a mistake by not claiming tax relief on Mr A's behalf.

Having said that, I have also considered very carefully whether I think Zurich made this fact clear to Mr A when he first took out his RAC plan. As I mentioned above, Mr A took out his RAC plan before the Financial Services Act 1986 came into effect on 29 April 1988. Consequently, his plan was sold to him under the protection of common law requirements, which were:

- *Where information was given, to disclose all material information.*

I've paid particular attention to the information that would have been provided to Mr A at the time when he first took out the plan.

I've looked at the brochure that described the benefits of the type of RAC Mr A took out with Zurich in April 1988. The brochure said:

.....it is now possible for the self-employed and others without a pension to invest in their own tailor-made tax shelter.

The first benefit the brochure listed said:

- *You can contribute up to 17½ of your earnings each year (more if you are over 50) and not pay any tax on this money.*

On page six of this brochure – in a section titled: *How does the tax relief work?*, the brochure went on to say that:

Tax relief is normally obtained against the earnings in the tax year in which the contribution is paid.

There is no explicit mention in the brochure of how tax relief on contributions should be claimed, but at the time the RAC was started, tax relief on pension contributions was only available on OPS schemes. I would consider that, at that time an accountant acting for a self-employed client when the RAC was established should have been aware of the need to claim tax relief through the annual income tax return. On balance, therefore, I find that it was fair and reasonable to consider that the information provided in the brochure at the time of sale would have been appropriate in terms of the regulations in force at that time.

Moving on to consider the single contribution payment made in 2018, I can see that Zurich did not explicitly tell Mr A of the need for him to claim tax relief on the contribution through his tax return. The requirements of the regulations had changed by this point and the Financial Conduct Authority's Principle 7 – Communications with clients applied. This principle states that:

A firm must pay due regard to the information needs of its clients, and communicate information to them in a way which is clear, fair and not misleading.

Having said that, however, I can see that Mr A did not receive any advice from Zurich over making this lump sum contribution. Any advice that he received in relation to this contribution was from the IFA. I also have to consider that Zurich had not changed the terms and conditions of Mr A's RAC plan since it was first taken out – and hence had no need to provide Mr A with any further information about how the plan operated unless he asked it, which I can't see that he did. Given this fact, I can't see that Zurich did anything wrong in not drawing Mr A's attention to the fact that he would need to claim income tax relief via his tax return.

I've also considered the evidence relating to the email that Mr A's accountant sent to him on 15 May 2024, in which Zurich appeared to confirm that it would claim tax relief at source in relation to the single contribution.

I note that the email says:

[Zurich] cannot talk to me specifically about your plan, but they did confirm that Zurich will always claim the "gross up" amount and add it to the client's pension fund.

I think on balance that although this information was incorrect when regarding Mr A's RAC policy that it's clear that Zurich did not provide it in this way – as it did not have the necessary authority to discuss Mr A's RAC with his accountant. I consider, therefore, that this information was most probably provided on a general basis, rather than in specifically in relation to Mr A's RAC plan, as the adviser would not have the plan records to hand in such a situation. I can't see that Zurich did anything wrong in this regard either.

I've also looked at the statements that Zurich provided Mr A over the years. I noted that the 2024 statement stated that the contribution information it contained:

.....may be used in support of a claim for income tax relief – it is not however a guarantee that the payments will qualify for tax relief.

On balance, I find it fair and reasonable to conclude that this statement implies that tax relief wouldn't be claimed by Zurich - it clearly references that the information may be used to support a claim for income tax relief. Although it doesn't make explicit that it was the responsibility of Mr A to claim this tax relief, it implies that a 'claim' would need to be made – which is not usually required when PRAS is added to a pension by a provider such as Zurich.

In conclusion and for the reasons I've outlined above, I do not uphold Mr A's complaint and won't be asking Zurich to do any more to resolve this complaint.

My final decision

Your text here

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 28 July 2025.

Bill Catchpole
Ombudsman