

## The complaint

Miss H complains that Aviva Life & Pensions UK Limited (Aviva) gave her incorrect information when she called it to opt out of her workplace pension. She thinks this led to her contributing into a pension she didn't want, leading to a financial loss.

## What happened

Miss H started work with a new employer on 25 March 2024. She was enrolled in its workplace pension scheme held with Aviva on 6 April 2024.

On 9 April 2024, Miss H called Aviva as she wanted to opt out of the workplace pension. Aviva said her pension may not have been set up yet, as it couldn't find a record of it.

Also on 9 April 2024, Miss H's employer provided her with a pension opt-out form. It asked her to complete and return the form to it by that Friday, which was 12 April 2024. The email also stated: *"You should have received an email or letter from Aviva with your personal ref/scheme number."*

Miss H hadn't received a reference number yet. She emailed her employer to ask if she needed to wait for a letter to come through, or if there was something she could do before that. I've not been provided with any response.

On 30 April 2024, Aviva sent Miss H plan information which confirmed receipt of the application to join her employer's pension scheme that had been made on her behalf. This stated that Miss H should contact her employer if she wanted to change her contributions.

The letter also asked Miss H to check the details provided. It said if she didn't agree with any of the declarations made on her behalf, she should tell it within 30 days of the date of the letter, so by 29 May 2024.

On 2 May 2024, Miss H emailed Aviva to ask for her plan number, so she could opt out of and cancel her plan.

Miss H said she only received Aviva's plan information letter on 3 May 2024. She said that as she'd started work on 25 March 2024, this was well after the 30-day period.

On 7 May 2024, Miss H called Aviva and again said she wanted to cancel her workplace pension. The call handler said that he could arrange to stop Miss H's own contributions. But explained that she'd need to contact her employer, which would then need to write to Aviva to tell it that its contributions would no longer continue. Aviva said that Miss H should hear back by 15 May 2024 about the cancellation of her own contributions. But repeated she'd need to get in touch with her employer about cancelling its contributions.

On 9 May 2024, Aviva emailed Miss H to tell her that it couldn't stop her contributions into the plan as those contributions were paid to it by her employer. It said that as Miss H's employer was responsible for the amount paid, she'd have to speak with it to stop future contributions.

Miss H told this service she also spoke to her employer about opting out. She said they were investigating.

Miss H contacted Aviva on 9 May 2024 to ask it to confirm that she would receive a refund of what she'd paid into the plan.

Aviva replied to Miss H on 14 May 2024 about the refund of her payments. It again stated that she'd need to contact her employer.

The evidence shows that both employer and employee contributions continued to be paid into Miss H's pension between 30 April 2024 and 23 September 2024. Miss H paid in total gross employee contributions of just over £610.

Miss H emailed her employer on 24 May 2024. She said she'd noticed that her payslip had a deduction for a pension contribution. She asked if she should call Aviva again. Her employer told her to give Aviva another call and ask if it'd opted her out correctly.

On 12 August 2024, Miss H emailed Aviva again. She felt she hadn't received a reply to her 9 May 2024 email. She said her employer had also asked Aviva to cancel, but her plan was still in place. She said she expected a full refund for the contributions Aviva had taken without her approval.

Miss H also emailed Aviva on 29 August 2024. She said an Aviva staff member had told her in April 2024 that her plan had been cancelled through her employer. But that contributions were still being deducted for her pay.

On 2 September 2024, Aviva issued a final response to Miss H's complaint. It acknowledged it'd given her incorrect information during the 7 May 2024 call, when it'd said it could stop the contributions. But it said it corrected this by email two days later. It apologised and said it would pay Miss H £25 compensation for the distress and inconvenience the incorrect information had caused.

Aviva said that it couldn't pause employee or employer contributions for a workplace pension. And that for contributions to be stopped, it would need the employer to confirm that to it directly. It also said that it wouldn't refund the contributions as it'd confirmed on two occasions by email that it couldn't make the changes Miss H had requested.

Miss H made a further complaint on 9 September 2024, as she was unhappy her plan hadn't been cancelled and her contributions refunded. Aviva said it'd explained in its 9 May 2024 email that it'd made an error and that the plan needed to be cancelled by the employer. It acknowledged Miss H had then replied the same day to ask if her money was going to be refunded. But said it'd replied to her on 14 May 2024 to repeat that it needed confirmation from her employer to cancel the plan.

Aviva said it'd never received a request from Miss H's employer for her to opt out of the plan. It said she'd need to speak with her employer to find out when and where it'd sent the request.

On 26 September 2024, Miss H brought her complaint to this service. She said she was in debt and struggling to pay bills given the contribution Aviva was taking from her. She said she wanted Aviva to cancel her plan and refund her £600.

An investigator issued his view based on what he felt was incomplete information from Aviva. He felt the complaint should be upheld.

Aviva didn't agree that it hadn't provided all the information our investigator had asked for. It said that the deductions from Miss H's pay weren't direct debits that it was actively taking, but monies sent to it by her employer. It said that it hadn't heard from Miss H's employer despite six months having passed since it'd told her she'd need to contact her employer to cancel her contributions.

Aviva said it'd made no errors in the administration of Miss H's pension. It said it'd received the contributions from her employer and had then applied them correctly. And that it would continue to do that until her employer stopped the contributions.

Later, Miss H told this service that her plan had been cancelled. Her employer confirmed that the last contribution was in the September 2024 payroll which would've been uploaded to her pension in November 2024. Miss H said she still hadn't received the £25 Aviva said it'd paid her.

Aviva said it sent Miss H a cheque for £25 on 2 September 2024. It said that if Miss H hadn't cashed that in it could confirm that and then issue a replacement payment.

The complaint was then considered by a second investigator. He didn't think that Aviva needed to take any further steps other than paying Miss H the compensation it'd already offered.

Our investigator said that Aviva had provided him with a copy of the guidance issued to employers in respect of workplace pensions. And that this had confirmed the following:

- *"Employers are responsible for receiving member requests to opt-out"*
- *Completed opt-out forms should be returned to the employer so they can issue a refund of contributions and stop future contributions*
- *Should an employee wish to opt-out after the end of the opt-out period, they cannot do this, however they can cease active membership by stopping contributions*
- *Employers should not submit contributions for any workers during their opt-out period"*

He therefore felt that it was clear that for Miss H to opt out, she'd need to arrange this through her employer. He felt that Aviva had made this clear in its 9 and 14 May 2024 emails.

Our investigator acknowledged that Aviva had given Miss H incorrect information on 7 May 2024. But said it'd corrected this in two working days, ensuring that Miss H was suitably informed about what action she needed to take. Under the circumstances, he felt the £25 Aviva had offered Miss H for the distress and inconvenience this had caused was fair.

Our investigator acknowledged that Miss H had yet to receive the £25 cheque Aviva had sent, so said he'd ask Aviva to issue a replacement.

Miss H was extremely disappointed with our investigator's view. She said that paying into a pension she hadn't agreed to had led to financial difficulties. She also explained that the situation had been affecting her mental health. Miss H felt she'd done everything she'd needed to do to cancel her pension. Despite this, she said she'd lost £1,500.

Miss H said that Aviva had given her incorrect information more than once. She felt that instead of simply emailing her to tell her about its error, Aviva should've called her and

explained the process to her.

Miss H said that during her first call with Aviva, she'd asked if she needed to fill in and return a form to her employer or if she could call back and cancel. She said she was told that the form wouldn't be needed. She felt that if Aviva had told her that she needed to complete the form and send it off to her employer she would've done so.

Miss H said that Aviva's 14 May 2024 email didn't mention her own contributions. She felt it'd simply referenced her employer's contributions, which was why she'd replied the same day to ask if she would still receive the refund for her own contributions. She said Aviva didn't reply. And that this was why she'd initially complained to Aviva, as she'd cancelled her own contributions but her payslips were showing that contributions were still being taken from her.

Miss H also didn't think Aviva had sent her the plan documents in a timely manner. She felt that she was most likely already outside of her opt out period when she received them.

As agreement couldn't be reached, the complaint has come to me for a 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 not going to uphold it. I know this will be disappointing for Miss H. I'll explain the reasons for my decision.

Miss H felt she'd done everything she'd needed to do to cancel her pension, but Aviva had refused to cancel it. So I first considered this point.

#### *Did Aviva fail to cancel Miss H's pension?*

Miss H also felt that Aviva's 7 May 2024 error led to her contributing to a pension that she didn't want, leading to financial loss.

I can see that Miss H said that Aviva told her in April 2024 that her plan had been cancelled through her employer. She also said that during her first call with Aviva, it'd told her that she wouldn't need to complete and return a form to her employer.

I understand that Miss H's call was placed in the queue for another department. But Aviva hasn't been able to confirm whether the call was ever connected or not. Miss H said that during that call, Aviva told her to call back once she'd received the documents and that it could then cancel her pension over the phone.

I've not found any evidence of either of these points in the April 2024 call recording I've been provided with. Given Miss H's plan hadn't yet been set up, so wouldn't have been on Aviva's systems, I'm not persuaded that Aviva told Miss H that her plan had been cancelled at this point.

The evidence shows that Miss H's employer was responsible for enrolling her into the plan. And it was her employer who then deducted her contributions from payroll and sent the money on to Aviva.

Aviva has acknowledged that it made an error during the 7 May 2024 call. At this point, Miss H's employer had already made a contribution to her pension.

On 9 May 2024, Aviva corrected its mistake. No further contributions had been paid into Miss H's pension between 7 and 9 May 2024, so even if Aviva had given Miss H the correct information during the 7 May 2024 call, it wouldn't have made any difference to the number of contributions paid in, as Aviva corrected its mistake before any further contributions had been made.

I appreciate that Miss H felt that Aviva hadn't replied to her 9 May 2024 email, as she didn't consider its 14 May 2024 email mentioned her own contributions. But I think that it did.

I say this because the 14 May 2024 email stated that it was: "*regarding a refund of your payments*". So I think it was clear that Aviva understood what Miss H wanted to do, and that it couldn't do that without her contacting her employer. I also think that this email, and the 9 May 2024 email, clearly explained that Miss H would need to contact her employer to cancel her plan.

I appreciate that Miss H felt that instead of simply emailing her to tell her about its error, Aviva should've called her to explain the process.

I understand why Miss H would've liked Aviva to call her, and I can see it might've been helpful here. But I'm not persuaded that she didn't already have enough information from Aviva to have reasonably been aware about what she needed to do to cancel her plan. Therefore I wouldn't have expected Aviva to think that it needed to call Miss H to explain further.

I've also considered Miss H's point that her employer had also asked Aviva to cancel her plan. But I can see that Miss H didn't provide any evidence of this request to Aviva when it specifically requested it in its 12 September 2024 complaint response. And I've not been provided with any evidence that it did so over the period in question. Therefore I'm not persuaded that Miss H's employer did ask Aviva to cancel Miss H's plan in April or May 2024.

Aviva said it didn't make any errors in its administration of Miss H's pension, as it'd received contributions from her employer which it'd then applied correctly. Overall, I've not found any evidence to dispute this. While I can see that Aviva made an error during the 7 May 2024 call with Miss H, I'm satisfied that it then took reasonable steps to put things right on 9 May 2024, before another contribution had been made. Therefore I can't reasonably agree that Aviva failed to cancel Miss H's pension. Nor can I fairly agree that Aviva's 7 May 2024 error led to a financial loss for Miss H.

Miss H felt that Aviva had only sent her the plan documents after she was outside of her opt out period. So I've gone on to consider this point.

#### *Did Aviva send the plan documents too late?*

The evidence shows that on 9 April 2024, Miss H's employer provided her with a pension opt-out form, which it asked her to complete and return by 12 April 2024. The email also said that Miss H should've already received her personal scheme number from Aviva. There's no evidence that Miss H completed the opt out form by the required date.

Aviva sent Miss H her plan documents on 30 April 2024 and I understand she received them on 3 May 2024. So I can understand why she felt she'd received the documents later than she should, given what her employer had told her.

However, Aviva's 30 April 2024 letter stated that she should tell it within 30 days of the date of the letter, so by 29 May 2024, if she didn't agree with any of the details provided.

Therefore I'm not persuaded that Aviva sent the plan documents too late, as the 30 days only started from 30 April 2024. It didn't start from the date of Miss H's membership of the pension, or from the first date of her new job.

In any event, not only did the letter state that Miss H would need to contact her employer if she wanted to change her contributions, but within 30 days from the date of the letter Aviva sent Miss H written guidance about what she needed to do if she wanted to cancel her plan. Therefore I'm satisfied that Aviva didn't send the plan documents too late.

In summary, apart from the error during the 7 May 2024 call which I'm satisfied Aviva had reasonably corrected two days later, I've not found any evidence that Aviva did anything wrong.

Therefore, while I'm very sorry to hear that Miss H has suffered financial difficulties which have affected her mental health, I can't fairly hold Aviva responsible for these difficulties.

Aviva said it has attempted to pay Miss H the £25 it offered her. And that it has offered to send a new cheque once it's confirmed Miss H didn't cash the previous one. Overall, I'm satisfied that Aviva's offer of £25 compensation for its acknowledged error is fair and reasonable under the circumstances of this complaint. I therefore don't uphold the complaint.

### **My final decision**

For the reasons explained above, I don't uphold the complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss H to accept or reject my decision before 11 June 2025.

Jo Occleshaw  
**Ombudsman**