

The complaint

Mr N has complained that, following contact with HMRC, he explained to Aviva Life & Pensions UK Limited (Aviva) that it wasn't applying the correct tax code, but that it didn't take appropriate action. Mr N has said that, as a consequence, he's been paying incorrect tax on his pension payments.

What happened

On 21 August 2024, Mr N contacted Aviva and explained that HMRC had changed his tax code, and it should now be K128X. On 27 August 2024, Aviva acknowledged Mr N's query.

On 19 September 2024, Mr N called Aviva to discuss his tax code. He said the HMRC tax code had been sent multiple times since April 2024 but hadn't been applied. During this call, Aviva provided an email address for Mr N to forward an HMRC document confirming that the tax code for his policy ending in 412 should be changed.

But as the call was coming to an end, it seems the line cut out and Aviva didn't call Mr N back.

On 25 September 2024, Aviva received a letter from HMRC which confirmed a tax code of K159 for another policy held by Mr N. This recorded £0 in previous payments and tax for the tax year 2024-2025.

On 14 October 2024, Aviva issued a final response letter addressing Mr N's concerns about the tax code not being implemented and the service it had provided. It didn't uphold the complaint regarding the tax code, saying that it didn't receive an HMRC document confirming the change, but acknowledged that it could have provided better service regarding the dropped call and awarded Mr N £50.

Dissatisfied with the response, Mr N referred his complaint to our service. He also told us that Aviva was sending correspondence addressed to his late wife (although this hadn't yet been raised as an issue with Aviva).

Having considered the matter, our investigator didn't initially think that it should be upheld, saying the following in summary:

- She appreciated that Mr N was unhappy and had said that Aviva refused to do anything with the information provided by HMRC. Mr N had maintained that the tax code for his policy ending in 412 had changed and that he had requested on multiple occasions that Aviva apply the correct tax code so he's correctly taxed throughout the year.
- Aviva for its part had said that it was unable to change the tax code for this policy unless it was contacted by HMRC or had an official document from HMRC instructing it to do so. To date, it seemed that the only document that Aviva received was dated 23 September 2024 for policy ending in 296. Aviva said this was an inactive policy and there was £0 tax to pay for this policy.

- Aviva further explained to Mr N that it was unable to use that tax code for Mr N's other policy ending in 412. And in any case, the tax code that Mr N said should be used for policy ending in 412 (K128X) and the tax code used for policy ending in 296 (K159) were different.
- The investigator acknowledged that Mr N had forwarded the message he received from HMRC to Aviva with regard to the change in his tax code, but she couldn't say that Aviva had done anything wrong if it hadn't received an official instruction from HMRC to change the tax code. Therefore our service wouldn't expect Aviva to do anything differently.
- Mr N had also said that he'd been told by HMRC that Aviva had a responsibility to update its contact details if emails from HMRC weren't getting through. However, it was the investigator's understanding that this wasn't the case here. Rather, it appeared that Aviva hadn't received any instructions regarding the tax code for Mr N's active policy, only his inactive policy.
- Aviva had a duty to tax policies according to the instructions it received from HMRC. So, if there had been a tax code change, Mr N should contact HMRC and request that it contact Aviva, or he should request a written copy of the tax change and provide this to Aviva.
- But as it was, without evidence of the tax code change, the investigator didn't think that Aviva had reasonably done anything wrong and needed to do anything further for Mr N until further evidence was submitted.
- Regarding the compensation offered by Aviva, the investigator thought the amount offered was fair and reasonable in the circumstances. She appreciated that it would have been upsetting and frustrating for Mr N that the call ended whilst he was attempting to discuss his concerns. And she considered it would have been good customer service for Aviva to have called him back. But she was pleased that Aviva had acknowledged its error, apologised and awarded an appropriate level of compensation.

Mr N disagreed, however, saying the following in summary:

- He first paid tax on his pension payments in the 2022/23 tax year and the right tax code was used. This was also the case in 2023/24.
- But it failed in 2024/25 and the issues began. As shown in the letters from Aviva, the earlier policy reference shown was that ending in 296, but the following letters had the different policy number ending 412. Aviva had said that the earlier number was now inactive.
- HMRC said in its online discussion with him, for which he'd provided evidence, that it was Aviva's responsibility, as pension provider, to contact it and update the information.

The investigator sent the evidence of Mr N's conversations with HMRC to Aviva and asked for its comments. She said that it wasn't clear whether the two policy numbers were completely separate or were the same policy with a new reference number created when the policy was transferred from Winterthur (the original policy provider) to Aviva. The investigator further referenced the online chat Mr N had had with HMRC, saying that it appeared to be

the latter's position that Aviva would need to update it with any new details. As far as HMRC was concerned, nothing had changed with Mr N's policy.

Aviva responded to say the following:

- It was reliant on HMRC notifying it before it can make any tax code update. It didn't think it was up to it to issue correspondence confirming that it had done this, but it would show on the advice slip that gets issued automatically when it made an annuity payment. Tax code updates could be sent to it throughout the year and were updated.
- It further said that the new tax code 0173K had been updated by HMRC on 3 March 2025.
- K tax codes had the effect of increasing the taxable income of an individual over and above the physical amount due, which increases the tax deducted. A restriction applied to K codes whereby it was unable to deduct more than 50% of the gross payment due, hence Mr N had been receiving payments at 50% of the gross level due. This meant that an underpayment of tax could build up over a tax year where the amount due was above the 50% limit.
- But it said that an "escalation" had been raised for this type of issue and Mr N would receive a letter shortly confirming what was being done to resolve the matter.

Mr N then submitted two letters he'd received from Aviva, one of which said that it had made an error with the tax which had been deducted in the 2024/25 tax year, and that it owed him £40.85. The other then said that the previous letter had been sent in error, and it in fact owed him £4.41.

Following this, Mr N said that he had no trust or confidence in Aviva.

The investigator then requested the following of Aviva:

- Clarification as to whether the policy ending in 296 and policy ending in 412 were the same or separate policies.
- If the policies ending in 296 and 412 were separate, confirmation as to whether it had received any tax instructions for that ending 412.
- Confirmation of the current tax codes for both policies.
- Confirmation as to how and why the amount of £4.41 was owed to him.
- Comments on what HMRC had said to Mr N in the online chat about Aviva needing to update it regarding tax codes, rather than the other way around, and whether Aviva had updated HMRC in other instances.

Aviva didn't respond, however, and so the investigator issued a further assessment on the matter. She noted that the online chat Mr N had had with HMRC was follows:

Mr N: *"They (Aviva) are saying they have not received any new codes from you (HMRC) for this year, not even the last change in august. So I am paying at last year's rate still."*

HMRC: *“If there is a problem with the payroll information and the pension is not held under the correct PAYE ref, the pension provider will need to update this and send the correct details to HMRC.”*

Mr N: *“I have been here three times before, and I am getting nowhere. I have raised two complaints at Aviva and they say it is down to the HMRC to give them payment details and refuse to contact you in regard to this matter. They (Aviva) gave me an email address for you to send details direct to their office if you are willing.”*

The investigator acknowledged that the snapshots weren't official documentation from HMRC, but she'd nevertheless taken the content into account.

She added that she'd submitted these messages to Aviva, but the only response had been that it was reliant on HMRC notifying it of the relevant tax codes. She noted that she'd also received no response to the further queries set out above.

The investigator considered that, as there'd been no further contact from Aviva on this issue, Aviva should now demonstrate that it provided correct information to HMRC regarding Mr N's policy.

Aviva should also provide evidence of tax information it received from HMRC so Mr N could be reassured that the correct tax code was being applied to his policy.

It was the investigator's understanding that Aviva awaited tax code updates from HMRC and was only able to take instruction from it regarding any tax changes. But she didn't think enough had been done by Aviva to enable Mr N to determine whether the correct tax code had been used.

Given the information provided by Mr N, including the online messages and tax letters, the investigator also said that it would be fair and reasonable for Aviva to contact HMRC to either check whether the correct tax code was being applied and if it then had enough information to be satisfied that the correct tax code had been applied, it should present this to Mr N.

Aviva didn't respond.

As a resolution couldn't be reached on the matter, it was referred to me for review. I issued a provisional decision on the complaint on 8 September 2025, in which I set out my reasons as to why I thought it should be upheld. The following is an extract from that decision.

“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, I've reached broadly the same conclusions as the investigator, and for similar reasons.

There's little which I think I can practically or meaningfully add to what the investigator has concluded and recommended, but I would say that I think Mr N has been let down here. Mr N has confirmed that the only change in his income has been the increase in the state pension, yet Aviva hasn't been able to offer an explanation as to why the code has changed.

HMRC has for its part said that nothing has changed regarding Mr N's details at its end, and I don't think Aviva has done enough to establish why the tax code it's using has changed, and which has caused Mr N to pay incorrect amounts of tax.

There's also the confusion surrounding the two policy numbers, and which hasn't been satisfactorily addressed or answered by Aviva, but which may in some way account for the change in the tax code.

There is then the matter of the letter which Aviva sent to Mr N explaining that he'd overpaid tax by £40.85, but without any meaningful explanation as to how this had been calculated, which was then followed by a further letter saying that the previous letter had been sent in error, and it in fact owed him £4.41 – again with no accompanying explanation.

Given the context here, and the fact that Aviva was aware that Mr N had been trying to establish why he was paying an incorrect level of tax, I think this would have further added to the confusion and distress caused to Mr N.

As such, my current view is that the complaint should be upheld, and that Aviva should undertake the direction set out below. But as also set out below, I consider that the payment in respect of the distress and inconvenience caused to Mr N by this matter should be increased.

Putting things right

Mr N is entitled to know why his tax code has changed. And an adequate level of communication between Aviva and HMRC should be able to determine why this has been the case. As such, Aviva should contact HMRC to definitively establish why this is the case, and then inform Mr N.

And if the tax code which is being used is determined to be incorrect, then this must be changed for future payments.

It should also provide Mr N with an accurate account of the contact it has with HMRC (e.g. email communication) and what has happened, with evidence, so that he may be satisfied that responsibility for what has happened has been properly established. It should also provide an explanation for the rather confusing existence of the two policy numbers.

If it's established that the reason for an incorrect tax code being used has not been due to failings on the part of Aviva, then Mr N may pursue this with the relevant authority.

However, if it's determined that an incorrect tax code has been used, and this has been due to information provided by Aviva, or other action it's taken, or it's failed to act on/implement information provided by HMRC (which has been sent to the right address), then Aviva should also either pay Mr N any underpaid pension amounts, or inform Mr N (as confirmed by HMRC) that he may seek a refund from HMRC directly.

Further, if higher amounts would have been paid when they should have been, but for failings identified by Aviva, then Aviva should add simple interest at 8% pa from the date that each higher payment should have been made to the date that it is paid to Mr N. If it is confirmed to Mr N that he should seek the tax refund directly from HMRC, then he should ensure that he does so at his earliest opportunity following a final decision along these lines (if it's more than 14 days after his earliest opportunity, following his acceptance of any future final decision along these lines, Aviva may deduct the excess time taken to apply for the refund from the interest calculation), and inform Aviva when the refund is made so that it may cap its interest calculation.

In terms of the additional compensation amount which should be paid to Mr N, as I've said above, I think Mr N has been let down here. Even if it's determined that Aviva hasn't been responsible for any error in the tax code, I think it could have done more to establish on Mr

N's behalf what has happened here – including liaising with HMRC to determine why the code had changed.

As set out above, I also think the two letters sent to Mr N regarding a tax refund would have been confusing and caused him additional distress.

The matter has been unresolved for almost a year now, and I note that Aviva has failed to respond to the investigator's most recent information request, hence the need for this decision. Complaint handling isn't a regulated activity as such, but I can make an award in respect of the overall level of service which has been provided to Mr N, and taking all of the above into account, I think this has been poor.

As such, my current view is that the overall amount in respect of distress and inconvenience caused to Mr N should be increased to £150."

Neither party has submitted further comments in response.

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.

My conclusions remain the same as those set out in the provisional decision, and for the same reasons.

Putting things right

Aviva Life & Pensions UK Limited should undertake the direction as set out in the provisional decision.

My final decision

My final decision is that I uphold the complaint and direct Aviva Life & Pensions UK Limited to undertake the above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr N to accept or reject my decision before 6 November 2025.

Philip Miller
Ombudsman