

The complaint

Mr A complains about the events and outcomes that occurred after that Aviva Life & Pensions UK Limited (Aviva) informed him that it had incorrectly calculated the entitlements from his pension plan when he drew his benefits in May 2023. He says Aviva's proposal and subsequent imposition of a solution to recover an overpayment from his tax-free cash (TFC) lump sum wasn't agreed by him and have led to financial problems and considerable stress, anxiety, and concern. He also says that Aviva delayed in making him aware of its error and have made other mistakes during this time.

What happened

In 2023, in response to his request to draw pension benefits from a plan he held with Aviva, Mr A received a quotation for an annuity of £7,444.68 per annum, with another for TFC of £55,378.98 and a reduced annuity of £5,595.36. After careful consideration he choose the second option. He received his first payments on or around 3 May using a set retirement date of 1 January 2023.

But in January 2024 Aviva contacted Mr A to explain that it had made an error in calculating his benefits and had commuted more TFC than it should have. It set out the revised amounts. It said HMRC would usually consider the overpayment of TFC to constitute an unauthorised payment – thereby taxing it at up to 55%. So it said it would reclaim the overpayment but understood this might be difficult for Mr A and asked him to contact it to find a suitable resolution.

In May 2024 Aviva wrote to Mr A setting out the actual calculations against the Lifetime Allowance (LTA) and maximum TFC allowable. It said it would consider all the available options for repayment as Mr A had previously said he was unable to repay the amount of overpaid TFC. Mr A says he didn't receive this letter.

By July 2024, having explored the options and been informed Mr A no longer held the TFC, Aviva proposed increasing the monthly annuity to what it should have been and then readjusting it to a level which allowed repayment of the excess TFC over a period of time.

Mr A asked why he hadn't received the letter from May 2024 as Aviva held both his correct home and email addresses. He made the following points in response of Aviva's error and proposed solutions:

- The error Aviva had admitted to had caused him a great deal of stress in respect of his finances, damaged his relations and reputation with HMRC, and undermined his confidence in Aviva.
- He had carefully considered the alternative quotes he was given to draw his benefits and reached his conclusion in good faith based on what he assumed was correct information.
- His own calculations suggested that even Aviva's revised figures were still incorrect. And he wouldn't have taken his benefits based on the now corrected figures as the TFC amount had been the prevailing factor in proceeding.

- He questioned why there was such a delay in identifying the error in the figures, as it was over 10 months after he received the quotes before this was discovered.
- His financial position meant he had already used the TFC and was unable to repay it.
- He hadn't received any communication from Aviva about the issue from when he first contacted it in January until May 2024.

In August 2024, in response to Mr A disputing the calculation, Aviva confirmed it was "certain" it was correct. It explained that the error came about because it used the figure at normal retirement age to commute benefits to the TFC instead of the earlier retirement age – which led to a higher amount of TFC being paid.

It set out two further solutions:

- As Mr A had suggested he wouldn't have taken his benefits if he'd been made aware of the correct figures, Aviva said it could unwind the payments and restore the plan to its original position – but this would require Mr A to repay the income he'd received.
- It would honour the figures it calculated and set out in March 2023 but would adjust the pre-tax annuity to the correct value ensuring HMRC received the correct amount of tax. The difference between the monthly payments would then be used to recover the overpaid TFC which would then be corrected in around 18 years. But Mr A would benefit from future pension increases as originally set out, and if he should die during that time the outstanding amount wouldn't be passed on to his dependents and Aviva would be responsible for that repayment.
- It offered £350 for the distress and inconvenience caused by its error.

Mr A raised further questions about how the second option would work in practice and was also concerned about how HMRC would act in light of the error and whether this would lead to further sanctions or enquiries into his affairs.

In December 2024 the first deduction of £64.28 was made from the monthly pension towards the recovery of the overpaid TFC.

Mr A then questioned why he had now begun receiving a payslip from Aviva as this hadn't happened previously. He also disputed the amounts that had been deducted as he said they differed depending on which person from Aviva had written to him.

Aviva confirmed that it had made a duplicate deduction in January and February 2025 so refunded this with interest to the account. But Mr A said he hadn't agreed to any of the options set out by Aviva and the decision to deduct the amount in question was one that hadn't been explained to him or achieved in consultation with him.

Mr A brought his complaint to us where one of our investigators looked into the matter. They didn't think the complaint should be upheld making the following points in support of their assessment.

- Mr A had benefitted from additional TFC he shouldn't have received. Those funds need to be reclaimed so that he is put back into the position he should now be in.
- But there was no dispute that full repayment was no longer possible, so Aviva needed to work with Mr A to find a reasonable and fair solution to recover the overpayment.
- Aviva's solution was to allow Mr A to repay the money from his monthly annuity over

a period of around 18 years. They thought this was fair and reasonable. It also allowed for any tax implications that might arise with HMRC to be met by Aviva.

- They thought the solution offered Mr A the opportunity to minimise any financial burden and should avoid any tax implications with HMRC.
- They were satisfied Aviva had now arrived at the correct figure and Mr A would receive the correct pension going forward – albeit that a reduction would be made in his monthly annuity payment to recover the excess TFC.
- They thought the payment of £350 compensation for the impact this – and some other errors Aviva made – was fair and reasonable in the circumstances.

Mr A didn't agree but said he needed more information from Aviva to understand the position as he felt it had provided contradictory and confusing communication. In summary Mr A wanted to know how much had been deducted towards the overpayment so far, what the monthly deduction would be going forward, and how long it would take to clear the overpayment.

Aviva issued a response setting out Mr A's current position and noting that it had always said it would cover any tax implications arising from its error, as well as confirming no interest would be added to the recovery amount. But Mr A said that Aviva's response also contained elementary mistakes – confirming his view that Aviva's figures simply couldn't be relied upon. He said that supported his claim for additional ongoing correspondence to show how much the overpayment was being reduced each month.

Mr A said he remained unhappy with the investigator's original assessment and the subsequent attempts to resolve the outstanding "financial" issues between himself and Aviva. He said that because Aviva's subsequent responses had been "piecemeal" and hadn't come from senior decision makers within Aviva, any future disagreement over these issues could leave him in a "invidious" position. He asked for his complaint to be referred to an ombudsman setting out a list of five commitments he wanted Aviva to confirm in writing by a "senior decision maker".

So the matter has been passed to me to 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.

And having done so I've reached the same conclusion as the investigator. In doing so, I've taken into account relevant law and regulations, Regulator's rules, guidance and standards, codes of practice, and what I consider to have been good industry practice at the time. This includes the Principles for Businesses ('PRIN') and the Conduct of Business Sourcebook ('COBS')."

I think Aviva's proposal (and subsequent implementation of that proposal) to resolve the matter of the overpayment of TFC is fair and reasonable. I also think it's payment of compensation for the impact this matter had on Mr A was fair and reasonable. I imagine Mr A will be disappointed with that outcome – and I have some sympathy for the position he found himself in during 2024 – so I'll set out my reasons below.

What happened and Aviva's solution to the problem

In simple terms, while utilising the correct fund value of Mr A's pension plan, Aviva committed too much TFC thereby overpaying his cash lump sum but underpaying his ongoing annuity. Unfortunately this led to a situation where HMRC would generally regard such an action as an unauthorised payment – meaning Mr A was exposed to a possible further tax surcharge of up to 55%. The simplest correction to this matter was for Mr A to repay the excess TFC and receive a higher annuity payment to balance the situation.

But Mr A had, understandably in the circumstances, already used his TFC by the time Aviva realised its error – so he couldn't repay it in one single payment. It was unfortunate that Aviva didn't become aware of its mistake until some months after paying the benefits as clearly this caused Mr A additional concern and stress, as well as limiting his options to repay the TFC or even to unwind the whole transaction by repaying the annuity payments he'd received. But I'm satisfied that Aviva did make Mr A aware of the situation as soon as it was discovered, which came about as a result of a review of benefits that had been paid by the scheme administrator.

However, although the situation had arisen because of Aviva's error, Mr A did need to pay back the excess TFC because to not do so would mean he would have benefited from that position. So Aviva needed to find a resolution which allowed Mr A to repay the TFC in an affordable way.

After it established that Mr A wasn't able to repay the TFC as a single payment Aviva set out its first proposal in July 2024. This involved offsetting the underpaid annuity amounts Mr A had already received against the TFC overpayment and increasing his future annuity payments to what they should be but then making an agreed deduction from that amount. Aviva said that deductions of 30 or 50% would result in the overpayment being erased in 7 or 10 years. Mr A disputed Aviva's calculations and raised objections to that resolution.

In August 2024 Aviva, having further considered the matter, set out two revised resolutions. The first was in response to Mr A's suggestion that he would not have drawn the benefits if he'd been aware that the correct level of TFC was less than he'd been paid. Aviva offered to unwind the whole transaction and return Mr A to his original (pre crystallisation) position. But I don't think Mr A was in a position to repay the income payments.

The second resolution was for Aviva to make the necessary administrative changes so that its internal reporting showed that Mr A was entitled to the higher annuity he should have received – thereby satisfying HMRC and reporting requirements – but to continue to pay him the annuity he had already been receiving. Aviva calculated this would lead to a repayment of the excess TFC in around 18 years. It also set out the following conditions that would apply – for Mr A's benefit and security – to any agreement:

- Mr A would revert to the higher annuity when, and if, the full recovery was made.
 - He would receive any future increases to the annuity amount.
 - No interest would be added to the overpayment balance.
-
- The recovery agreement would end should Mr A die before it was repaid, and the outstanding amount wouldn't be recoverable from his beneficiaries – who would continue to receive any pension that was due to them. So Aviva would take on the risk of the recovery not being fully maintained in that situation.
 - Aviva would be responsible for any tax implications that came to light with HMRC during this time – although it believed this was unlikely in the circumstances.

I haven't seen any evidence to confirm that Mr A explicitly agreed to this resolution as during this time I can see that he made a general complaint about a number of issues related to the whole matter. But I think that, in answering his complaint, Aviva concluded that there was no other practical resolution other than to implement a recovery process which caused minimal disruption to Mr A and allowed the recovery to take place over the longest practical term possible. I think Aviva's resolution proposal – which it then implemented – was fair and reasonable in the circumstances, I say that for the following reasons.

Aviva had offered Mr A the option of reverting to his original position, either by repaying the TFC overpayment or repaying the annuity payments he'd received and restoring his original fund value. Unfortunately due to the time that had elapsed Mr A, understandably, was unable to meet these requirements. Therefore the only option available was for Aviva to recover the amount overpaid in such a way as to cause Mr A the least amount of disruption and financial disadvantage. By allowing him to retain the level of annuity payments he had become accustomed to and taking the overpayment back in relatively small and affordable amounts met, in my opinion, this balance.

So I think, as I would have expected it to, Aviva set out to Mr A a number of alternatives to cover all possibilities – albeit through no fault of his own he was unable to consider the ones that involved immediate repayment. But a means to pay back the TFC overpayment was required, not least to ensure no further exposure to HMRC rules around unauthorised payments, and I think the solution that Aviva implemented was fair and reasonable. And although it was unfortunate that the error wasn't recognised for some months after the benefits were first paid, I think it was a genuine administrative error from Aviva, and I'm satisfied that it contacted Mr A and made him aware of the problem and began to propose alternative solutions as soon as was practically possible.

Mr A has questioned why it took Aviva until early May 2024 to discuss the matter with him after first advising of the error in late January 2024. I haven't been provided with any evidence to demonstrate any communication that may have taken place during this time although I note the January 2024 letter did ask Mr A to contact Aviva to discuss solutions to the issue. But in case I've taken this timescale into consideration when considering the impact this whole matter had on Mr A – which I'll set out below.

The events after December 2024

Around December 2024 Aviva began the recovery process. It sent Mr A a payslip – which it hadn't done previously – setting out the amount it had paid him and also deducted towards the outstanding repayment balance. Mr A disputed both the payments and deductions as well as raising further queries about the calculations he'd been issued. He thought there were inconsistencies across the different people that had communicated with him. Aviva initially clarified why it had issued Mr A a payslip (and agreed to provide them going forward) and did accept that it had duplicated the deductions it made across December 2024 and January 2025. But Mr A still didn't accept the overall calculations – and in particular the amount he had to repay – were correct.

Thereafter there have been numerous communications between both parties – facilitated to some extent by the investigator – in an attempt to reconcile the amounts involved. To date Mr A says this still hasn't been corrected, although the most recent issue caused by duplication of deductions has now been conceded by Aviva and should now be corrected.

I've looked carefully at all the correspondence from this period. I can understand Mr A's frustration with what has happened. He has been right to dispute the updated figures that have been provided as he's been able to demonstrate the various errors that have been made when Aviva issued revised outstanding figures. But I was pleased to see that prior to

the last request that was made to Aviva, Mr A said the duplicated payments seemed to be the only outstanding financial issue. He told us “*once this is corrected our figures will reconcile as at the end of September 2025.*”

And now that Aviva has accepted Mr A was right to dispute that the duplicated payments hadn’t been subtracted from his outstanding balance, I’m satisfied the matter has now been corrected. However I think Aviva should now provide, if it hasn’t already done so following its most recent email, clear confirmation of the outstanding remaining balance with the respective amounts that have been paid towards the overpayment being shown and broken down. This should provide closure to the matter of what Mr A has to repay as well as his current position.

But in his latest submission to us Mr A asked me to direct Aviva to give a number of written assurances about related matters which should be “signed off” by a senior member of Aviva’s team. I do understand the strength of Mr A’s feeling about this matter and the impact it’s had on him. I can see from his submissions that he has lost faith in Aviva’s ability to administer his plan and facilitate the recovery progress – which he maintains has been imposed without his consent. But, as I’ve noted above, Aviva has already set out its commitment to the points Mr A wants confirmed. So I don’t think it’s reasonable to ask it to do that again and I don’t see any benefit in this being signed off by a senior person as it wouldn’t add any further value to the current position.

Aviva has said what it will do for Mr A regarding his plan administration going forward. If there are future issues with its administration, then Mr A is free to register a new complaint with Aviva in the first instance should this occur.

The P60 issue

Mr A has consistently questioned why the “*lump sum allowance*” amount shown on his most recent P60 document is different to the figure noted on his previous P60’s. I can understand Mr A’s concern here, so I wanted to give him an explanation. Because Mr A is receiving his regular annuity payment but ought to have been receiving a higher annuity (the difference between the two is his recovery payment) it needs to reflect the higher figure to ensure the correct level of tax is accounted for. This has resulted in Aviva increasing the overall amount shown on the P60 but that’s largely a notional figure used for accounting purposes. Mr A’s actual situation now is broadly unchanged, and the recovery process will correct the overpayment of TFC that was repaid. So this is an administrative change to ensure his tax position remains correct. However Aviva has also said that in the unlikely event of any issues with HMRC around Mr A’s tax position it will correct things if and when required.

The impact on Mr A and Aviva’s compensation payment

Mr A has told us through various submissions about the stress and anxiety Aviva’s repeated errors have caused him over a protracted period. Aside from the initial commutation error, he says that the imposition of a solution he didn’t agree to and the subsequent failure of Aviva to provide correct calculations around his current position – as well as errors in processing payments – have caused a great deal of upset and distress.

I don’t take lightly the impact this matter has had on Mr A and I’ve recognised where Aviva has made errors and added to Mr A’s upset here. I said earlier that, even if Mr A didn’t contact Aviva after January 2024, it should still have moved to the process of identifying resolutions earlier and it hasn’t provided any evidence to justify the time taken here. In addition Aviva has made errors in the way it processed deductions and then in its communication to accurately confirm Mr A’s position with respect to his outstanding recovery

balance. I'm mindful of the fact that it was Mr A who identified the errors that continued throughout 2025 within the information Aviva provided.

I've taken all of this into consideration, and I agree that it represents impact which caused considerable distress, upset and worry over some months – and required extra effort to sort out.

Our general guidelines would suggest a payment of between £300 and £750 is appropriate for this level of impact. Aviva has already accepted that it did make mistakes and has paid Mr A £350 – which he doesn't think is sufficient. But it is within those guidelines set out above. So when taking all the circumstances into consideration, I think that £350 is appropriate. It represents an amount broadly in line with what I would have recommended if no award had previously been suggested. I think it's a fair and reasonable sum for the impact this whole matter had on Mr A in the circumstances of his complaint.

My final decision

Aviva Life & Pensions UK Limited has paid Mr A £350 for the impact this matter had on him. I think that's a fair and reasonable payment in the overall circumstances of this complaint.

Aviva Life & Pensions UK Limited should also provide Mr A with up-to-date confirmation of the outstanding balance on his recovery plan – along with a breakdown along the lines of what I 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 23 December 2025.

Keith Lawrence
Ombudsman