

the incident of the missing protection

Our casebooks are drawn from the chronicles of the Pensions Ombudsman and are designed to draw from these cases, perhaps in a light-hearted and easily digestible way, points that might be of relevance to advisers who work with self-invested and self-administered pensions.

so... what happened?

A client (Mr X) had opened up a SIPP and amongst other things, had managed to direct some monies into an investment that had, regrettably, failed. (Boo. Hiss). Mr X, however, applied to FSCS for compensation and was awarded £50,000. (Hurrah!). A good result?

Separately, sometime previously, Mr X had decided to register for Fixed Protection 2014 (FP14). This, as we know, allowed Mr X to benefit from a higher Lifetime Allowance – up to £1.5m in fact. (Excellent news!). Crucially, Mr X appears to have kept this registration to himself. (Perhaps not so great).

When asked by FSCS what Mr X wished to do with the £50,000 compensation, he elected to have it paid to his SIPP. (Las Vegas was not an option). On processing it, the provider made it clear to Mr X that it would be treated as a third-party contribution and would attract tax relief of £12,500. So far so good?

All went well... until Mr X's adviser was provided with the information and suggested to Mr X that it would appear that he had breached the terms of FP14. In other words, one of the conditions for FP14 was that no further pension contributions could be paid to a pension scheme. Alas, enter the complainant, the Ombudsman, and the eventual decision...





what was the outcome?

First and foremost, the provider was not found to be at fault, as they were unaware of the fact that Mr X had applied for FP14. There was, in their view, no reason not to process the contribution (aside from the suggestion that Mr X had declared he had no UK relevant earnings).

Mr X applied to undo the contribution. This, however, encountered the 'simple' problem that a contribution cannot be refunded other than in 'exceptional circumstances'. Liaising with HMRC did not present any obvious solutions. In other words, they said no.

As it happened, one of the circumstances where a refund is allowed is where an individual, on making a personal contribution, is not eligible for tax relief. As Mr X confirmed he had no UK relevant earnings, a gross contribution of £62,500 would not be viable. A solution?

No. A contribution of £3,600 gross is still allowable as a minimum even for those who do not have earnings, and thus while a refund was agreed, it amounted to the excess above £3,600. A contribution was therefore still deemed to have been paid.

And so, FP14 was lost. Never to be found again.

* * *

what do we learn?



Compensation payments being made to pension schemes are treated as tax relieviable pension contributions. Logically, while it might be natural to think that as the pension scheme has lost out monies should be returned there, this can have far wider implications. Always ask before paying.



Contributions, once made, are not easily refunded. HMRC expects there to be a genuine error, rather than a change of mind. Adverse tax consequences discovered later are not considered to be a genuine error.



Reinforce to clients that they should make sure providers and advisers aware. If the provider had been aware of the IP14 registration, they may have identified the consequences to Mr X. Similarly, Mr X's adviser would likely have intervened prior to contribution being made.

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