

Contacting us

There are lots of ways you can contact us.

Pensions Helpline **0300 123 1047**

(Monday- Friday 9:00am- 5:00pm)

Web chat live

www.pensionsadvisoryservice.org.uk

Online enquiry form

www.pensionsadvisoryservice.org.uk/online-enquiry

Write to us

The Pensions Advisory Service
11 Belgrave Road
London
SW1V 1RB



@TPASnews



/pensionsadvisoryservice

We regret that we are unable to accept visitors at our office. Please note that this guide is for information only. The Pensions Advisory Service cannot be held responsible in law for any opinion expressed, nor should any such opinion be regarded as grounds for legal action.

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Mistakes and overpayments

How we can help and the next steps

The PENSIONS Advisory Service

About The Pensions Advisory Service

Pensions can change people's lives. Most of us would like to be able to choose to stop work one day and choose how we live when we do. A good pension is a good way to achieve that. Our vision is a future where people are empowered to make the most of their pensions.

The Pensions Advisory Service (TPAS) is here to give people professional, independent and impartial help with their pensions – for free.

We are here to:

- give you independent information and guidance on pension matters
- mediate and resolve problems you may have with your pension

We will always try our hardest to help you with your pension query. Our service is about you and your needs, helping you to navigate through all the options that may be relevant to your personal circumstances. Based upon what you tell us, we will always try to help you get the answers you need or identify the people you need to speak to.

At the Pensions Advisory Service, we understand pensions, and are passionate about making them accessible to you.

Our tips on avoiding a pension dispute

A pension dispute can often be a long and complicated process. It's something you'll want to avoid if you possibly can.

We would strongly recommend you follow these steps:

- **ask for** specific information about your own personal circumstances,
- **make it clear** that you are a member of the scheme or a policy holder and give them your details so they can refer to your records,
- **don't rely** on non-specific illustrations or information given to other members.
- **get all** the information about your pension in writing, signed and dated; don't rely on oral assurances given over the phone or in meetings.
- **keep in touch** with your pension provider. Make sure they are aware of any changes in your circumstances.
- **make sure** you know what'll happen to your pension if something changes in the future: if you take early retirement, become incapacitated, or die, for example.
- **file all** your information in one place and let your partner, dependants or executors know where it is.
- **be sure** the benefit statements you receive confirm any promises made to you and check calculations.
- **query** anything that does not seem to be correct.
- **don't be** put off by technical language and jargon: there's no such thing as a stupid question– you deserve to understand everything

For State Pensions and other queries...

We are unable to handle complaints related to State Pensions. While we can help with general advice, you should talk to your local Benefits Agency or the central pensions department at www.gov.uk/browse/working.

We also can't help with a dispute which relates to your job rather than the provision of your pension scheme. If your complaint is more to do with your job, you may want to contact your local Citizens Advice Bureau.

If you're not sure where the dispute lies, we can offer you advice so you can solve your issues quickly and easily.



Mistakes and over payments

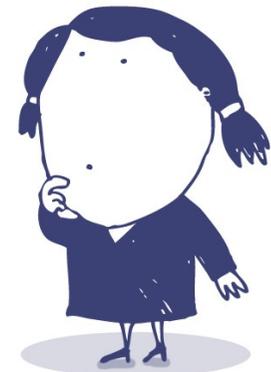
Sometimes, even the best run schemes make mistakes. It's very important that if you think a mistake has been made that you take action as soon as possible.

We're frequently asked to help settle a dispute between a member and the pension scheme or provider. These disputes range from mistakes through to more complex issues on pension entitlements. Mistakes and overpayments is a common reason for disputes.

Main reasons for disputes

The main reasons for complaint were:

- Entitlement
- Mistakes and overpayments
- Delays
- Decision-making
- Overpayments



What you should do if you think there's been a mistake

You should contact your pension scheme or provider straight away, ask them to explain what's happened and to answer your concerns.

If you're not sure what to do or you want to talk this through, contact our helpline on:

0300 123 1047 or webchat live.

If you bring your concerns to the attention of the scheme's authorities as soon as you notice something's wrong, it gives them the best chance to resolve any difficulties.

If the situation isn't resolved in a reasonable period (we would suggest around four weeks) then you can approach us for help.

“our service is free to you”



Secondly, there must be a direct link between your decision or the spending and the overpayment. It can't be spending or decisions that you would have made anyway.

Finally, the decision or spending must be irreversible. If you can reduce your loss, you should try to do so. This also means that any decisions or spending you made after being made aware of the mistake will be ignored.

How quickly must you pay back the overpayments?

It's normally reasonable for your pension provider to allow you a repayment period that matches the period in which the overpayment was made. For example, if you are overpaid for 2 years, it's reasonable for you to repay the amount over two years. Aggressive attempts to recover the overpayment over a short period could be grounds for a further complaint.

Your pension provider should also take into account your personal circumstances and avoid causing you financial hardship when agreeing a repayment schedule.

What about if you have a contract?

If you have a contract, it's terms can't be broken by a mistake. But for a contract to be formed, it's necessary for the following features to be present:

- offer
- acceptance
- consideration
- intention to form a legal relationship

It's not common for all four features to be present, this means that only in limited circumstances will it be possible to argue a contract was formed.

What the law says

The law recognises that no one should benefit from a mistake.

If a mistake is found, the usual basis applied by the courts is that you should only receive your correct benefits. It's expected that all parties should take steps to try to put you in the position you would have been, if no mistake had happened.

If there has been a mistake made with your pension benefits, compensation may be payable if you have 'changed your position' (see below). In other words, compensation will usually be designed only to overcome any actual financial loss caused directly by the mistake. You will have to prove a direct link.

Compensation is sometimes available if you can prove you have suffered distress or inconvenience as a direct result but awards are normally quite modest—usually in the region of £50 to £250.

What is 'change of position'?

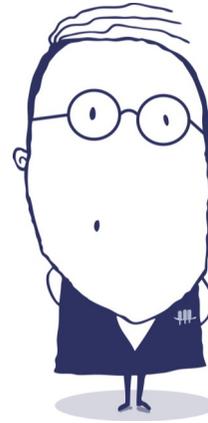
Change of position means that, because of a mistake, irreversible decisions or spending have been entered into, which means you're now worse off. Change of position is not just limited to specific items of spending, but can also include differences in your lifestyle.

What if you've been overpaid

There are precedents which say the payer has the right to recover the overpaid amount. However, in some cases, it may be possible that you don't have to repay some, or all, of the amount if, because of the mistake you have 'changed your position'.

How do you show you've changed your position?

Firstly, there must be no suggestion that you knew or should have known a mistake had happened. If you knew or should have known, a claim for financial loss would not be upheld.



“there’s no such thing as a stupid question – you need to understand everything and we can help by explaining”

How we can help

We are happy to help if you think there's been a mistake with your pension entitlement. If there has been a mistake, we will try to make sure you get your correct benefits and, if you relied on the mistake to make decisions or spend money, we will work with you and your pension provider to explore how the mistake has affected your finances.

If, after you have given your scheme a chance to resolve your complaint, you remain unhappy, send us copies of all relevant correspondence. While we have no statutory power to make the scheme comply, we can look at your situation and we will tell you whether we think you have a case. If we think there is a case to argue, we will try and help you and your provider reach a mutually satisfactory outcome.

To understand your case you will need to tell us how you relied on the mistake or the overpayment you received. If you have evidence of your decisions or spending, please send that too. If we need to contact your pension provider, we will first ask for your authority to do so.