

The complaint

Mr D has complained that Scottish Equitable Plc, trading as Aegon, caused delays in the transfer of his pension to another provider. This, Mr D has said, caused him financial loss as he was unable to buy assets, in particular Index Linked Gilts, at an advantageous price.

What happened

On 27 September 2022 a transfer out request was input onto the “Origo” system, a facility designed to action speedy transfers between recognised providers, which was captured by Aegon as an inbound transfer out request on 28 September 2022.

On 29 September 2022, Aegon e-mailed Mr D enclosing a “Pension Scams” booklet and “Transfer Out” questionnaire.

The accompanying email said the following:

“As a pension provider we have a duty to look for early warning signs of whether a pension is being transferred as part of a pension scam, and therefore need to conduct further due diligence on your request for transfer. We have attached a form to this email and we ask that you complete and return this at your earliest convenience. Your responses will enable us to gather more information on the new provider in order to ensure the integrity of the transfer.”

On 6 October 2022, Mr D contacted Aegon and was informed that it hadn’t received the questionnaire. Mr D raised a complaint and sent a further copy of the questionnaire, which was received by Aegon on 7 October 2022. Then, on 10 October 2022 the transfer was referred to Aegon’s “due diligence” team.

On 12 October 2022, Mr D again contacted Aegon via web chat for an update on the transfer. Later that day, the due diligence team agreed to the transfer subject to receipt of an indemnity form being signed.

Aegon issued the indemnity form on 13 October 2022 by post and received the completed form on 18 October 2022.

On 19 October 2022, Origo showed that the funds were transferred to AJ Bell.

On 5 November 2022, Mr D sent a complaint letter to Aegon, which followed earlier complaint letters from September 2022 that Mr D had sent in relation to the delays in fund switches.

On 22 December 2022, Aegon responded to Mr D’s complaint, upholding it in part and offering an amount for the trouble and upset caused. The Aegon response was inclusive of a complaint which Mr D had also made relating to the investment switches. It offered £500 in respect of what it considered to be the poor standard of information which had been provided to Mr D.

However, it declined to uphold the substance of the complaint relating to delays incurred in either the investment switches or the subsequent transfer. It said that both the switches and transfer had been processed correctly.

With particular regard to the latter, Aegon said that it needed to wait for the transfer questionnaire and indemnity form to be completed before the transfer could progress. And the latter needed to be posted back to Aegon, rather than emailed.

The complaint about the investment switches has been addressed separately by this service, and a decision was issued which upheld Mr D's complaint on the basis of the delays incurred by Aegon in selling assets and buying new ones.

Having considered the complaint about the time taken to transfer Mr D's pension funds, our investigator didn't think it should be upheld. He said the following in summary:

- As the decision relating to the switches had awarded redress up to 4 October 2022, with "settlement" as at 5 October 2022, it was only events from 5 October 2022 to the date of transfer which needed to be considered further.
- Aegon had said that the processing times it had quoted for transfers were estimated. There was no guarantee that the timescales quoted would be met.
- This also wasn't a usual set of circumstances. Mr D had accepted transfer advice and was quickly moving funds from the product he'd been advised to transfer into.
- It therefore wasn't surprising that Aegon considered that further due diligence was required. Mr D had clearly decided to accept the advice to move defined benefits to Aegon with the intention of then moving them to AJ Bell on a non-advised basis. And this was the kind of additional due diligence which the investigator would expect to see in such circumstances.
- A service standard of ten working days would be a generally accepted industry norm for transfers. The transfer was initiated via Origo on 28 September 2022, and as a transfer in of defined benefits had been received within the last six months, Aegon then sent its transfer out questionnaire the next working day. This was an example of good customer service.
- Mr D had said that he returned the questionnaire on 20 September 2022 by first class post. But Aegon had no record of receiving this until he sent it again and it was then received on 7 October 2022.
- The transfer request was referred to the due diligence team the next day and it was approved, subject to completion of the indemnity form, three days after the receipt of the transfer out questionnaire.
- The indemnity form was issued four working days after the receipt of the questionnaire. Once this was received by Aegon on 18 October 2022, the funds were paid to AJ Bell the following day.
- The investigator therefore concluded that there hadn't been any unreasonable delays caused by Aegon in the transfer.
- Having reviewed the "web chat" which Mr D had with a representative of Aegon on 12 October 2022, Mr D was informed that the transfer was subject to some final

checks and that these would be complete within the “next couple of days”. This was factually correct.

- The representative said that the next contact would be by email, but they were unaware that a hard copy of the indemnity form would be required at that point.

Mr D disagreed, however, requesting that the matter be referred to an ombudsman for review if his points didn’t change the investigator’s view on the matter.

As such, the matter was referred to me.

I issued a provisional decision on the complaint on 22 January 2024, in which I set out my reasons for upholding the complaint. An extract from that decision is set out below.

“I’ve considered all the available evidence and arguments to decide what’s fair and reasonable in the circumstances of this complaint.

Aegon gave inaccurate timescales for completion

*Mr D has said that Aegon failed to complete the transfer within its own published timescales, but as he also noted, it did manage expectations in this regard with phrases such as “if enough cash is available, we’ll **usually** process your request within three working days” (my emphasis).*

As with the investigator, I in any case think that Aegon processed each part of the transfer process within a reasonable timeframe, given the generally accepted timescales within which it would be expected for parts of the process to be completed. And there were no guarantees as to the precise number of days that it would take which I think might reasonably have unfairly raised Mr D’s expectations as to when the process would be complete.

I do, however, address individual aspects of the actual process itself, in particular relating to the indemnity form, further below.

The requirement for due diligence

Mr D has said it’s unclear as to why this needed to happen, given that the proposed transfer was from one SIPP to another. But providers do need to take steps to ensure that their customers aren’t falling victim to pension scams, and I think the circumstances here, in that Mr D had transferred defined benefits to a SIPP with it, and then very quickly sought to transfer to another SIPP provider without seemingly seeking further advice, meant that, in my view, the additional steps it took here to protect Mr D weren’t unreasonable.

Aegon’s issues with the receipt of post

Mr D has said that, in its dealing with his complaint, Aegon mislaid a letter which he’d sent using a Royal Mail tracking service, and needed to initiate a search to locate it and add it to his file. Mr D’s argument therefore is that it couldn’t be assumed that the missing first transfer questionnaire could be attributed to postal issues.

However, I think it would be difficult for me to reasonably conclude that, on the basis of the temporary mislaying of the complaint letter, Aegon also lost the transfer questionnaire. And if Aegon was able to locate the complaint letter after an internal search, then it seems reasonable that such postal items, once found, do eventually become added to the file.

But I note here that Aegon has no record at all of the first transfer questionnaire being received. Aegon will receive many thousands of pieces of post every day and will successfully add the vast majority of them to customer's files. And I don't think it would be a fair and reasonable conclusion for me to draw that, on the basis of Aegon temporarily mislaying the complaint letter, that lightning effectively struck twice here and that it also (permanently in this case) mislaid the first transfer questionnaire.

The funds not being held in cash until 5 October 2022

Mr D has said that this was the case due to his access to the portal not being set up correctly.

But in terms of how this might have affected the process of the transfer to the new SIPP provider once the funds were received by Aegon, as the second transfer request wasn't received by Aegon until 7 October 2022, I don't think this has an impact on the outcome of this complaint.

And as to Mr D's assertion that the mismanagement of his expectations as to timescales prevented him from moving his cash into alternative assets, I've addressed this in the section above.

Sending the indemnity form by post rather than email

Mr D has said that he informed Aegon's representative in the webchat of 12 October 2022 that he was on holiday, and that he was told that the next communication would be via email. However, the indemnity form was posted to him, which caused delays.

Having referred this back to Aegon, it's said that the reference which Mr D made about being on holiday was with respect to his complaint, rather than the transfer process. Aegon therefore considers that this didn't make it a necessity for everything to be emailed to Mr D.

It has further said that it sent Mr D the indemnity form on 13 October 2022, which Mr D then completed promptly on 17 October 2022. Aegon received this the next day, and completed the transfer the day after that.

Aegon's position is that, given the requirement for the form to be witnessed, it doesn't consider that this requirement lends itself to being emailed. As it needed to be signed and witnessed using "wet" signatures, it said that it ran the risk of delaying matters for customers who didn't have ready access to a printer.

But there was also the following exchange within the same webchat of 12 October 2022:

Mr D – When can I expect the transfer to be completed?

Aegon representative - The team are currently working on it just now, I imagine they will be complete within the next couple days, the team will keep you informed of the process as well.

Mr D - How will the team keep me informed of the process?

Aegon representative - They will email you and/or the adviser.

And so I think Mr D would quite reasonably have been under the impression that he would be emailed – and wouldn't therefore reasonably need to specify that he wanted the next

contact relating to the transfer to be emailed. And Aegon itself recognised that the content of this webchat had been misleading in its final response to Mr D.

Further, although it may be Aegon's general policy to send such forms by post (and I acknowledge its points around this), it did then email Mr D the indemnity form, and so it seems to have been quite possible to have done this in the first place.

I therefore need to consider whether, on balance, the fact that Aegon didn't email the indemnity form to him, as Mr D might reasonably have been expecting, has caused a delay here.

I can see that, once the form was emailed on 17 October 2022, although Mr D was on holiday (within the UK), he acted quickly to print it, sign it and have it witnessed. He returned it the same day by guaranteed next day delivery. And I have no reason to doubt that, had the form been emailed on 13 October 2022 rather than being posted, Mr D would have acted any differently.

Taking into the account the intervening weekend, there was, therefore, a delay of two working days caused by the form being posted rather than emailed.

I'll set out below how I currently consider Aegon should remedy this.

The award for non-financial loss

Mr D has also said that the £500 Aegon offered in respect of his complaint related to the matter of the fund switch only. As such, Mr D considered that this should be considered afresh in the complaint about the transfer.

I've thought carefully about this, and although I can see that Aegon offered £500 in respect of its assessment of the complaints about both the switch and the transfer, I've also noted that the ombudsman who considered that separate switch complaint said that the amount of £500 was appropriate in respect of that specific complaint which he was considering.

And so, in thinking about the actual number of days' delay here and the likely proportionate impact of the matter on Mr D, but also the trouble he's been put to in trying to resolve the issue, I think a further £250 is probably appropriate in this instance.

Putting things right

My aim is to put Mr D as closely as possible into the position he would now be in, had the transfer delay not been incurred here.

Aegon should therefore compare the current notional value of Mr D's pension plan, as at the date of any final decision along these lines, had the transfer been made two working days before it was (and subsequent investments made two working days earlier than they were), with its actual value at the same date.

Aegon should, in the first instance, pay the compensation into Mr D's pension plan, to increase its value by the amount of the compensation. The payment should allow for the effect of charges and any available tax relief. The compensation should not be paid into his pension plan if it would conflict with any existing protection or allowance.

If the compensation cannot be paid into his pension plan, Aegon should pay it directly to Mr D. Had it been possible to pay it into the plan, it would have provided a taxable income, so the compensation should be reduced to notionally allow for any income tax that would

otherwise have been paid.

The notional allowance should be calculated using his expected marginal rate of tax at his selected retirement age. For example, if he is likely to be a basic rate taxpayer at the selected retirement age, the reduction would equal the current basic rate of tax. If he would have been able to take a tax-free lump sum, the reduction should be applied to 75% of the compensation. I've assumed that Mr D will be a basic rate taxpayer in retirement.

Aegon should also pay to Mr D £250."

In response, Aegon said the following in summary:

- It considered that it had caused Mr D a loss of expectation rather than a potential financial loss by saying that it would email him next, rather than posting something such as a discharge form (which, as it would require a wet signature and a witness, was always likely to be posted).
- Had its representative who engaged with Mr D been aware that the next item to be sent would be the discharge form, it was unlikely that they would have agreed that it would be sent by email.
- It accepted that the content of the webchat would have led Mr D to believe that the discharge form would be emailed, but it didn't consider that it was unreasonable for it to have posted this in the first instance – as I had acknowledged.
- Therefore, it considered that an increased award for the trouble and upset caused, factoring in the false expectation, would be the fairest outcome – rather than considering loss from any delay.

Mr D also said the following:

- Mr D said he was grateful for the provisional conclusions, and although he considered that he could present further arguments which would strengthen those conclusions, as they wouldn't change the outcome, there seemed to be little point in doing so.
- He did, however, wish to make the point that, in his view, the timescale given on Aegon's website didn't accurately reflect the time taken to process a transfer. Aegon's statement that it would usually process transfer requests within three working days wasn't consistent with its later comment that this would be the "best case scenario" rather than an average timescale.

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, and although I've taken into account Aegon's additional comments, I'm not persuaded to depart from my provisional conclusions. I don't think the loss is restricted to one of expectation here. Had Mr D been made aware that the usual process would be to post the discharge form rather than email it, he could have requested that it be emailed instead within the webchat to speed up the process. And as I said in the provisional decision, as this is then what happened after it had been posted initially, this is what could have happened in the first place.

And so the transfer would more likely than not have completed two working days sooner.

Regarding Mr D's comment about the quoted timescale for processing a transfer request, I acknowledge the point he's making, and simply leave it to Aegon to review whether it considers any change to the wording needs to be made to successfully manage its customers' expectations.

Putting things right

My aim is to put Mr D as closely as possible into the position he would now be in, had the transfer delay not been incurred here.

Scottish Equitable Plc, trading as Aegon, should therefore compare the current notional value of Mr D's pension plan, as at the date of this final decision, had the transfer been made two working days before it was (and subsequent investments made two working days earlier than they were), with its actual value at the same date.

Scottish Equitable Plc, trading as Aegon, should, in the first instance, pay the compensation into Mr D's pension plan, to increase its value by the amount of the compensation. The payment should allow for the effect of charges and any available tax relief. The compensation should not be paid into his pension plan if it would conflict with any existing protection or allowance.

If the compensation cannot be paid into his pension plan, Scottish Equitable Plc, trading as Aegon, should pay it directly to Mr D. Had it been possible to pay it into the plan, it would have provided a taxable income, so the compensation should be reduced to notionally allow for any income tax that would otherwise have been paid.

The notional allowance should be calculated using his expected marginal rate of tax at his selected retirement age. For example, if he is likely to be a basic rate taxpayer at the selected retirement age, the reduction would equal the current basic rate of tax. If he would have been able to take a tax-free lump sum, the reduction should be applied to 75% of the compensation. I've assumed that Mr D will be a basic rate taxpayer in retirement.

Payment should be made within 28 days of the date of this decision. If it isn't, Scottish Equitable Plc, trading as Aegon, should add simple interest at 8% pa to any loss amount from the date of this decision to the date of settlement.

For the reasons set out in the provisional decision, Scottish Equitable Plc, trading as Aegon, should also pay to Mr D £250.

My final decision

My final decision is that I uphold the complaint and direct Scottish Equitable Plc, trading as Aegon, to undertake the above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 1 April 2024.

Philip Miller
Ombudsman