

The complaint

Mrs L complains that Scottish Equitable Plc trading as Aegon (“Aegon”) failed to treat her fairly when she discussed taking a pension commencement lump sum (“PCLS” – otherwise known as tax free cash) from her pension savings.

What happened

Mrs L has been assisted in making her complaint by a claims management company. But in this decision, for ease, I will generally refer to all communication as if it has been with, and from, Mrs L herself.

Mrs L holds pension savings with Aegon in a self-invested pension plan (“SIPP”). In November 2020 she discussed taking some of her pension benefits with an advisor from Aegon. As a result of those discussions Mrs L withdrew the entire PCLS she was entitled to take. But the remainder of her pension savings remained invested in her SIPP.

Mrs L complained that Aegon had not identified her vulnerability when she discussed taking her pension benefits. She said that it wasn’t appropriate for Aegon to leave her to decide what to do with the remainder of her pension savings. And rather than leaving those pension savings invested in asset backed funds she should have been advised to purchase an annuity.

Aegon didn’t agree with Mrs L’s complaint. It said its member of staff had made it clear to Mrs L that Aegon was only offering information– not advice. So it was Mrs L’s decision how to use her pension savings. But Aegon told Mrs L that it was disappointed it hadn’t dealt with her complaint as efficiently as it would have wanted. So it paid her £100 for the inconvenience those delays had caused to her. Unhappy with that response Mrs L brought her complaint to us.

Mrs L’s complaint has been assessed by one of our investigators. He thought that Aegon had made it clear to Mrs L that it wasn’t offering her advice about how to use her pension savings. And he thought that Aegon had provided Mrs L with sufficient information about all the options available to her, including purchasing an annuity from another provider. So he didn’t think Mrs L’s complaint should be upheld.

Mrs L didn’t agree with that assessment. So, as the complaint hasn’t been resolved informally, it has been passed to me, an ombudsman, to decide. This is the last stage of our process.

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.

In deciding this complaint I’ve taken into account the law, any relevant regulatory rules and good industry practice at the time. I have also carefully considered the submissions that have been made by Mrs L and by Aegon. Where the evidence is unclear, or there are

conflicts, I have made my decision based on the balance of probabilities. In other words I have looked at what evidence we do have, and the surrounding circumstances, to help me decide what I think is more likely to, or should, have happened.

At the outset I think it is useful to reflect on the role of this service. This service isn't intended to regulate or punish businesses for their conduct – that is the role of the Financial Conduct Authority. Instead this service looks to resolve individual complaints between a consumer and a business. Should we decide that something has gone wrong we would ask the business to put things right by placing the consumer, as far as is possible, in the position they would have been if the problem hadn't occurred.

I think there are two aspects to Mrs L's complaint that I need to decide. I first need to consider whether Aegon was responsible for providing her with advice about her pension savings, including taking a partial withdrawal from those savings to pay the PCLS and then deciding how she should use the remainder. But regardless of whether or not Aegon provided advice to Mrs L, it also needed to provide her with clear, fair, and not misleading information. So second I will consider whether Aegon did all that it needed to in that regard.

In reaching my decision I have listened to a telephone call between Mrs L and Aegon that lasted for approximately 36 minutes. But I have also noted that Mrs L says that an earlier call also took place where she was given some preliminary information about the choices she could make. I haven't been given a copy of that call. But I don't think it necessary to request that call to be provided to me. I am satisfied that, even if Mrs L had been given some incorrect information on the earlier call, the content of the call I have listened to would have been sufficient to correct any earlier errors. And certainly, at no time on the call I have listened to, did Mrs L express any concerns that she had been given different information in the past.

At the start of the call Aegon explained to Mrs L that the process it would be following was not designed to provide her with advice, or a recommendation, about how she should proceed. It explained that there were other bodies, such as PensionWise or an independent financial advisor, that she might want to get in touch with to get some further support on the decisions she was making. Mrs L told Aegon that she was aware of those options, but was happy with the approach she intended to take,

I am satisfied that it was entirely reasonable for Aegon to deal with Mrs L on the basis that it wasn't providing her with advice, or any recommendation, about what would be best for her. I have considered that Mrs L says she was vulnerable at that time, caring for her husband who faced serious health problems, and that she had little ability to access the information that Aegon says was provided about her pension online. But I don't think any vulnerability was something that Mrs L made Aegon aware of during the call. And she told Aegon that her daughter helped her with online activities. So on balance I think it was reasonable for Aegon to proceed in dealing with Mrs L using its normal approach.

So I am satisfied that Aegon didn't provide any advice, or a recommendation, to Mrs L. And I am further persuaded that Mrs L understood that, and it was reasonable for Aegon to conclude that she was competent to make any decisions herself.

Aegon set out for Mrs L the choices that she could make on her pension savings. I think it important to remember here that Mrs L's pension savings were already held in a SIPP, and followed a defined investment approach. The actions that Mrs L took had no impact on where her pension savings were held, or how they were invested. But, even if they had, as I've set out above, those would have essentially been decisions that Mrs L needed to take for herself.

Mrs L told Aegon that she had already decided the approach she wanted to take – she wanted to receive her PCLS payment and leave the remainder of her pension savings invested in her SIPP. But even so, Aegon ensured that Mrs L was aware of the alternative approaches open to her. It told her about using her pension savings to take uncrystallised funds pension lump sums (“UFPLS”) payments instead. It told her that she could take all her pension savings in one go paying tax on the remainder above her PCLS. It told her that she could purchase an annuity (although it explained that would need to be from another provider as Aegon no longer sold annuities.) And it told Mrs L that she could, of course, decide to take no withdrawals at all at that time. In fact it told Mrs L that was something she might want to carefully consider since the value of investments had fallen at that time due to wider economic circumstances – it asked Mrs L to consider if she had any other means of generating the income she was seeking.

So I’m satisfied that the information Aegon provided to Mrs L was sufficient for it to meet its regulatory obligations of providing clear, fair, and not misleading information. And I am further satisfied that Aegon tailored the information it gave to Mrs L so that she could understand what she was being told. At each stage of the process Aegon asked Mrs L for her confirmation that she had understood the information, and asked if she would like anything repeating.

So on balance I don’t think that Aegon did anything wrong in the way it dealt with Mrs L when she took some pension benefits in 2020. I appreciate that my decision will be disappointing for Mrs L – changes in the economic environment, and her circumstances, might mean that with the benefit of hindsight she wishes she had taken a different approach in 2020. But I’m satisfied that Aegon dealt with her in a fair and reasonable manner. It was for Mrs L to make her own decision about how to proceed based on the information that Aegon had given to her – information that I think was clear and not misleading.

My final decision

For the reasons given above, I don’t uphold the complaint or make any award against Scottish Equitable Plc trading as Aegon.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mrs L to accept or reject my decision before 13 August 2024.

Paul Reilly
Ombudsman