

## The complaint

Mr P complains that Scottish Equitable Plc trading as Aegon ('Aegon') told him that a pension fund switch could be put on hold, but then allowed the switch to go ahead.

## What happened

On 27 September, Mr P submitted an online request to switch his fund from Balanced Lifestyle to cash. He then called Aegon the following day to ask that the switch be placed on hold. Aegon advised Mr P that the switch could be put on hold at that time.

The switch then went ahead on 29 September. Mr P found out about this and made a complaint to Aegon.

On 6 October, Aegon accepted it had wrongly told Mr P the switch could be put on hold. It decided to reverse the switch that day and put the funds back into Balanced Lifestyle. Mr P was unhappy with the way Aegon had handled his complaint, and that Aegon had taken action before checking this was what he wanted at the time. On 10 October, Mr P requested a switch back to cash, and I understand this was completed on 12 October.

Aegon thought it had put right its error by reversing the switch. However, it accepted that the matter had caused Mr P stress and upset. Aegon offered him £250 compensation initially, but later increased this to £500. Mr P didn't accept this offer, and brought his complaint to this Service.

Our Investigator recommended the complaint be upheld. He thought Aegon hadn't taken the correct action to put matters right. He recommended that Aegon perform a calculation as if the switch to cash had gone ahead on 29 September. But he thought the evidence supported that Mr P would have switched back to the Balanced Lifestyle fund on 3 October, so also recommended that Aegon take this into account in the calculation.

Our Investigator said that we couldn't consider Mr P's concerns about Aegon's complaint handling, as he thought this fell outside our jurisdiction. Finally, he was of the view that the £500 compensation Aegon had offered was reasonable and reflected the impact the error had had upon Mr P.

I issued a provisional decision on 28 April 2023. Here's what I said:

*'It's not in dispute that Aegon gave Mr P wrong information when it advised him on 28 September that the switch request put through the previous day could be placed on hold. When a business has done something wrong, the aim of this Service is to place the consumer back in the position they would have been in if not for the error (as far as possible).*

*The switch couldn't be put on hold or cancelled. Aegon's decision to reverse the switch on 6 October therefore didn't place Mr P back in the position he would have been in, if not for its error. That's because, regardless of the wrong advice Aegon gave Mr P about the matter, he should have been invested in cash on 29 September.*

*On 3 October, Mr P told Aegon that he wanted it to switch his funds back from cash to Balanced Lifestyle with a financial uplift. I see there's been some discussion between Mr P and our Investigator about whether Aegon should take this into account in its calculations to put matters right.*

*It seems to me that Mr P wanted Aegon to put right what he thought was its error, in failing to put his initial switch request on hold. However, Mr P could have actioned the switch from cash back to Balanced Lifestyle himself on 3 October (or at any point between 29 September and 6 October) if he'd wanted to do this.*

*So I don't think Mr P's email of 3 October should be taken as confirmation that he wanted a switch back to Balanced Lifestyle to take place based on the prices of that day. I therefore don't intend to require Aegon to take into account Mr P's request of 3 October to go back into Balanced Lifestyle in its calculations.*

*Mr P says that Aegon's actions prevented him from dipping in and out of the two funds to take advantage of the market conditions at the time.*

*We don't know for certain what Mr P would have done, if he'd known the initial switch couldn't be placed on hold. He says he wanted to be in Balanced Lifestyle on 29 September, and then intended to move into cash a couple of days later. But he couldn't remain in the Balanced Lifestyle fund as he'd already requested a switch to cash which couldn't be stopped. I understand Mr P's point that he intended to dip in and out of the two funds to take advantage of the market conditions, but we can't be sure what action Mr P would have taken and when.*

*So I find a reasonable outcome would be for Aegon to carry out a calculation of the fund value as if it had not reversed the fund switch on 6 October. In other words, as though Mr P had remained invested in cash from 29 September until he switched back into this fund on 12 October. If Mr P would have been better off, then Aegon should pay Mr P the difference.*

*Our investigator said we don't have jurisdiction to consider complaints about a financial business' complaint handling. That is correct, if a complaint is solely about the way a business has handled a complaint. However, in Mr P's case, I think his concerns about Aegon's handling of his complaint were connected to his concerns about Aegon's initial error in respect of the fund switch. So I find that this does fall within our jurisdiction.*

*Whilst I appreciate Aegon was attempting to put matters right for Mr P by reversing the switch on 6 October, I think it ought to have discussed this with Mr P before taking any action. Particularly as Aegon was aware that Mr P was distressed about the situation. I also understand that Aegon gave Mr P conflicting information about timescales for looking into his complaint.*

*It's apparent that Aegon's initial error caused Mr P confusion, and this was then compounded by the way Aegon tried to put matters right. Mr P was on holiday abroad at the time and, due to the stress that the matter was causing him, he cut short his holiday to return to the UK five days earlier than planned.*

*Aegon has offered Mr P £500 compensation, but I intend to require it to increase this to £650. Whilst I appreciate the initial error itself was not particularly significant, it's clear that the overall impact on Mr P was. This compensation also takes into account Aegon's handling of the complaint.'*

*I asked both parties for any further comments they wished to make before I made a final decision.*

Aegon remained of the view that the action it had taken was reasonable in the circumstances. It said it had treated Mr P as a vulnerable customer, and he had said that he wouldn't have gone through with the switch to cash. Aegon says it therefore reversed the switch to place him back in the position he would have been in.

Aegon also said Mr P waited until 10 October before switching his funds back into cash, and it thought customers were supposed to mitigate their loss.

Finally, Aegon said that Mr P has transferred his pension to another provider, and wanted clarification about the date it should use for the price comparison, and what it should do with the funds.

Mr P didn't have any comments about my provisional decision.

### **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.

Aegon's initial error was that it wrongly advised Mr P that the switch could be placed on hold. It could have paid some compensation to him for his disappointment in later finding out that this wasn't correct. But it didn't need to reverse the switch as this had already been put through before he received the wrong advice. So, regardless of the wrong advice Aegon gave Mr P about the matter, he should have been invested in cash on 29 September.

Mr P switched back to cash on 10 October. I don't know what the fund prices were between 6 October and 10 October, so I can't say that Mr P should have taken action to mitigate his losses by switching back to cash before 10 October. It's also the case that it takes a couple of days for a switch request to be actioned. Ultimately, my aim is to place Mr P back in the position he would have been, if not for Aegon's initial error. I remain satisfied the fairest way to do this would be for Aegon to calculate the fund value as if it had not reversed the fund switch on 6 October – in other words, if Mr P had remained invested in cash from 29 September until he switched back on 12 October.

Aegon says Mr P has now transferred his pension fund elsewhere. I've taken this into account in the below redress wording. Mr P has also confirmed he is happy for the funds to be paid to the SIPP where he transferred his Aegon pension, or it can set up a new pension fund (invested in cash) and he could action the transfer himself.

### **My final decision**

My final decision is that I uphold this complaint.

I require Scottish Equitable Plc trading as Aegon to calculate the position Mr P would be in if he had remained invested in cash from 29 September until he switched back into this fund on 12 October. If this is higher than Mr P's position was at the date he transferred his pension elsewhere, it should make up the difference by paying Mr P compensation.

Aegon should pay any compensation due into Mr P's pension plan (options detailed above). The amount paid should allow for the effect of charges and any available tax relief.

Compensation should not be paid into the pension plan if it would conflict with any existing protection or allowance.

If the compensation cannot be paid into Mr P's pension plan, it should be paid directly to him. 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 actual or 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.

Aegon should provide Mr P with a copy of its calculations in an understandable format.

I also require Aegon to pay Mr P £650 additional compensation (less any amount already paid), which should be paid directly to him.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 9 June 2023.

Chantelle Hurn-Ryan  
**Ombudsman**