

## The complaint

Mr C complains that Scottish Equitable Plc, trading as Aegon, failed to provide him with appropriate assistance in the transfer of his pension savings to a new provider.

## What happened

Mr C's complaint relates to the transfer of his pension savings from Virgin to Aegon. As the recipient of the transferred funds Aegon was responsible for making the transfer request to Virgin, and managing the process on Mr C's behalf. The transfer took far longer than Mr C thinks was reasonable.

Mr C has made complaints about the actions of all three regulated firms involved in this transfer, Chevening (Mr C's financial advisor), Aegon, and Virgin. I have carefully considered the actions of each firm and, I think the responsibility for the delay is shared between all three. I am issuing separate decisions on the complaints made by Mr C against Virgin and Chevening that largely mirror my findings here. So for that reason, and for clarity, I have chosen to name all three firms in this decision.

I issued provisional decisions on this complaint, and the complaints against Chevening and Virgin, earlier this month. In those decisions I explained why I thought that Aegon shared responsibility with Chevening for the first part of the delay to the transfer. And so I set out what I thought Aegon needed to do in order to put things right. Both parties have received a copy of the provisional decision but, for completeness and so those findings form part of this decision, I include some extracts from it below. In my decision I said;

*Chevening provided Mr C with advice about the transfer of his pension savings in November 2019. Its advice was to combine two separate pensions, one of which was held with Virgin, into a single new plan to be held with Aegon. As part of that advice, Chevening recommended that Mr C should modify his investment approach to reduce the equity exposure, and so the risk, in his pension investments. Mr C agreed with Chevening's recommendation and agreed for the transfers to take place.*

*When Chevening first asked Virgin for information about Mr C's pension savings, Virgin also sent the firm a form that it said would need to be completed should any transfer go ahead. Virgin did not offer transfers via the automated Origo Options system used by some other pension providers. But Chevening didn't ask Mr C to complete the transfer authorisation form provided by Virgin. Instead it asked Mr C to complete a form provided by the new receiving scheme, Aegon.*

*Chevening sent Mr C's transfer request to Aegon on 30 January 2020, and Aegon sent the form on to Virgin on 12 February. Virgin confirmed receipt of Mr C's instruction five days later. But on 21 February Virgin sent a letter to Aegon saying that it had rejected the transfer instruction. But the reasons Virgin provided were not entirely clear – it told Aegon that it needed any Letter of Authority to contain Mr C's full postal address.*

*On 3 March, Mr C asked Chevening to provide him with an update on his transfer from Virgin. He noted that the transfer of his pension benefits from the other scheme, that had been requested at the same time, had completed a few weeks earlier. Chevening asked Aegon for an update, and following a series of phone calls between the three firms, the reason for Virgin's rejection of the transfer request was identified. The form that Aegon had used to make the request did not contain Mr C's full postal address. Mr C provided an updated application form on 5 March that was received by Virgin on 9 March.*

*Virgin still failed to process Mr C's transfer request. On 9 April Virgin advised Chevening that Mr C needed to complete its own application form, rather than that provided by Aegon. Mr C completed that form and sent it to Virgin. Mr C's transfer was completed on 21 April.*

*When Virgin looked at Mr C's complaint it concluded that the form he had sent in on 9 March was sufficient for it to complete his transfer. So it looked at whether Mr C had lost out as a result of the delay between when the transfer should have completed based on the receipt of that form (13 March) to its actual completion date (21 April). It concluded that Mr C hadn't lost out but paid him some compensation for his inconvenience.*

*But Mr C still considered that there had been a delay caused by the use of the wrong authorisation form, and due to the time it had taken for that problem to be identified. So he asked that we consider whether any of the parties were responsible for that part of the delay (between 21 February and 13 March).*

*As I have explained earlier, there are three regulated businesses involved in the matters that underpin Mr C's complaint. In this decision I am only considering the actions, and responsibilities, of Aegon. And my directions will only relate to that firm. But I will naturally need to reflect on the actions of the other two firms. As I have said, I am issuing separate provisional decisions against Virgin and Chevening for their parts in the delay.*

*Virgin has already agreed that it should have been in a position to complete Mr C's pension transfer when it received the updated application form containing his address in early March. So in this decision I need to consider the delay that occurred between the transfer application initially being sent to Virgin on 21 February, and the point at which the updated form was received.*

*I think the basic facts around that delay are not disputed. Virgin sent Chevening the forms that it said needed to be completed by Mr C to authorise the transfer when it provided information to Chevening about the pension plan in November 2019. I think the request Virgin made was reasonable, and set out clearly.*

*Details of the information Virgin required wasn't provided to Mr C, or to Aegon. So it was entirely Chevening's responsibility to ask Mr C to complete the relevant forms that had been sent, or at the very least to ensure that the application form Aegon used contained all the information that Virgin needed. That wasn't done, and so the initial cause of the delay appears to me to be due to the failings of Chevening.*

*Virgin received the transfer instruction from Aegon on 17 February. But four days later Virgin responded to Aegon. It said that it couldn't accept a letter of authority giving permission to access information about Mr C's pension plan unless the letter of authority contained specific details including the consumer's full address. But Aegon hadn't sent a letter of authority into Virgin – that had been sent by Chevening*

*the previous October. So it seems there might have been some confusion about what Virgin had sent, and a delay was caused to Mr C's transfer.*

*But Aegon initially failed to act on the letter Virgin had sent. It seems that it wasn't until Mr C chased Chevening for a progress update on his transfer in early March that any further actions were taken. At that point there were discussions between Chevening, Aegon, and Virgin. From those discussions it became apparent that Virgin actually required Mr C's address to be submitted as part of the transfer application – and that was what its message was actually referring to, rather than the erroneous reference to a letter of authority.*

*Once that missing information had been established, Mr C, Chevening, and Aegon acted quickly to provide the required information to Virgin. But I think that additional time can only be considered to be as a result of the wrong form being used in the first place. But as I said earlier, Virgin has agreed that it held all that it needed in early March, and that Mr C's transfer should have been completed around 13 March. So I think it is at this point that my consideration of the delay, in respect of this complaint, should end.*

*As I have explained, I think there are two parties at fault for the delay Mr C experienced between 21 February and 13 March. Chevening failed to provide Mr C with the levels of assistance I think he had reason to expect. It had been made aware of the information Virgin required from Mr C in order to authorise a transfer. It failed to make either Mr C or Aegon aware of those information requirements, or ensure that Mr C's transfer authority was compliant. And I think that Aegon failed to act on the letter it was sent when Mr C's application was rejected. Although that letter might not have been as clear as it might have been, it still fell to Aegon to understand what was being requested. So I think that Chevening and Aegon should share the cost of any compensation that is due to Mr C for the delays between 21 February and 13 March.*

*I have thought carefully about how the cost of the compensation between 21 February and 13 March should be shared. I have looked carefully at the timeline that applies, and think that the responsibility should be divided as follows;*

- Chevening - 21 February to 26 February (5 days). Had the correct form been used to make the transfer application it would have been processed by Virgin within 5 days of receipt. So the time taken for a rejection to be received by Aegon was due to a failure by Chevening.*
- Aegon – 26 February to 4 March (7 days). This was the time taken to act on the rejection by Virgin of Mr C's transfer request. That delay was the responsibility of Aegon.*
- Chevening - 4 March to 13 March (9 days). This was the additional time required for the completion and submission of new transfer instructions in a form ultimately agreed as being acceptable to Virgin. As before had the correct information been provided at the outset this delay would not have occurred so is the responsibility of Chevening.*

*The initial analysis performed by Virgin of the losses experienced by Mr C suggest that overall, between 21 February and 13 March, the value of Mr C's pension savings fell. And that their value then recovered a little in the period to 21 April. So Virgin has said that its delay, from 13 March onwards, didn't cause any loss to Mr C. And I agree with that analysis.*

*But, within that period as I've noted above, Mr C's pension savings actually experienced an increase in their value. So Mr C would be unduly compensated if I simply looked at the fall in the value of his pension savings between 21 February and 13 March. So I will allow Aegon, and Chevening, to proportionately reduce the compensation they need to pay to Mr C by the later gain. But, I do not intend to apportion the loss any further between the three earlier periods. As I explain below I think the overall loss between 21 February and 13 March should be calculated, and then apportioned between Aegon and Chevening as set out above.*

I invited both parties to provide us with any further comments or evidence in response to my provisional decision. Mr C has said that he largely agrees with my findings, but has some concerns over the complexity of the calculation the three businesses will need to perform in order to put things right. He says that he would like to be able to check and verify the calculation against his own records. And he has pointed out a typographical error in the compensation that I said I would direct Aegon to pay. I will correct that error below.

Aegon has said that it doesn't agree with my provisional findings. Although here I am only summarising what Aegon has said, I want to confirm that I have read, and carefully considered, the entire response.

Aegon agrees that Mr C's pension transfer was delayed. But it says that it doesn't think it was responsible for any part of the delay. It says that the rejection letter it received from Virgin was unclear, and that resulted in the communication being mis-categorised on its systems. It says that error was corrected on 4 March when it discussed with Virgin what information was actually required.

Aegon says that, in any case, it would be unreasonable to expect it to have dealt with Virgin's rejection on the day it was received. It says that the letter wasn't miscategorised until three days after its receipt – that is in line with its normal processing timescales. It doesn't think Virgin's letter should have been fast tracked. So it thinks the part of the delay that I am attributing to Aegon was actually the responsibility of the other parties, Chevening and Virgin.

Aegon has also questioned the way in which I have said any compensation should be determined. It says that instead of considering the two periods I set out in my provisional decision, before and after 13 March, I should in fact treat the entire period as a whole. It says that it is unfair to suggest that Virgin doesn't have any liability for the loss simply because its part of the delay came at a time of favourable market movements.

## **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.

As I set out in my provisional decision, 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 Mr C 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.

And again 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've thought carefully about the response that we have received from Aegon to my provisional findings. And I've also taken account of the response that Chevening has provided to my findings on the other complaint. Having done so I'm not minded that I should change the way in which I think the responsibility for the delay should be apportioned. But I would like to provide some additional reasoning in the light of Aegon's comments.

I accept that the error in Virgin's letter might have caused Aegon some difficulties in correctly categorising the request on its systems. But it is for Aegon to ensure that it correctly identifies the purpose of any correspondence it receives. And, if the apparent request being made doesn't reflect Aegon's understanding of the current situation, it should clarify the request in a timely manner.

I am not persuaded that Aegon's discussions with Virgin on 4 March were as a result of its own processing activities. Mr C asked Chevening to update him on the progress of his transfer the day before, and Chevening had passed that request onto Aegon. I haven't seen anything to persuade me that, without Mr C and Chevening's intervention, Aegon would have sought more information from Virgin about the request it had been sent.

So whilst I accept that a reasonable period might be expected for any processing activity to take place, I don't think that can be entirely blamed for the additional delay that was caused to Mr C. At the extreme, it could be argued that Aegon's responsibility started a couple of days after the letter was received – when it was incorrectly classified on its systems. But I'm not persuaded that would result in a fair outcome to Mr C's complaints.

I think Mr C has been generous in accepting the twelve days that Aegon initially took to forward his transfer request to Virgin. I don't think it unreasonable to have expected that initial activity to have been completed sooner. So taking that delay into account I think it would be reasonable for him to expect Aegon to have responded to Virgin's rejection on receipt. I don't think that Aegon acting in that way would be reasonably considered to be treating Mr C unfairly when compared to its other customers.

So my conclusion remains that Aegon should be considered responsible for seven days of the delay that Mr C's pension transfer suffered.

The delay to the transfer naturally falls into two distinct parts. There was an initial period of time leading up to Virgin being provided with an acceptable transfer instruction that contained all the information it needed to proceed. And then there was a second delay, in Virgin actioning that instruction. Given I am finding that the responsibility for the first part of the delay only falls between Aegon and Chevening, and that the responsibility for the second part of the delay only falls to Virgin, I don't think it unreasonable to separate the two time periods when considering the compensation that needs to be paid.

So I remain of the opinion that responsibility for the delay to the transfer of Mr C's pension benefits, that took place between 21 February and 13 March should be shared between Aegon and Chevening in the ratio of 1:2. It follows that Aegon should now pay Mr C the compensation I set out in my provisional decision, and repeated below for clarity (with the correction of the typographical error in the dates as pointed out by Mr C).

## **Putting things right**

Aegon should request information from Virgin to determine the value of Mr C's pension savings that would have been transferred had his request been completed when the authorisation form was first submitted to Virgin. I understand that date to be 21 February 2020. That value should be compared to the amount being used by Virgin to calculate the compensation it might have needed to pay for the later delay – I understand the relevant date to be 13 March 2020.

If that shows the value on 21 February would have been higher than that on 13 March then Mr C has lost out as a result of the delay. As set out previously that delay amounts to 21 days, of which 7 are the responsibility of Aegon. So Aegon is responsible for one third of the compensation that is due to Mr C.

But Aegon should also request information from Virgin to determine the value of Mr C's pension savings when they were ultimately transferred. I understand that will be greater than the notional value as at 13 March. Aegon may deduct one third of that gain from the compensation that is due to Mr C.

The value of that compensation should then be used to calculate a final compensation value by adding or subtracting notional returns based on the investment performance of Mr C's overall pension savings as if they had been invested in the same way as they have been, from the date the transfer should have concluded, on 21 February 2020, to the date of any final decision along these lines. For clarity that means Aegon should also account for any gains or losses the transferred pension savings would have experienced if the transfer had happened earlier. Aegon should also supply information about the investment returns to Chevening so it can calculate its share of the compensation to be paid.

The compensation should be paid into Mr C's pension plan. 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 Aegon is unable to pay the total amount into Mr C's pension plan, it should pay that amount direct to him. But had it been possible to pay into the plan, it would have provided a taxable income. Therefore the total amount should be reduced to notionally allow for any income tax that would otherwise have been paid.

The notional allowance should be calculated using Mr C's actual or expected marginal rate of tax at his selected retirement age. I think that it's reasonable to assume that Mr C is likely to be a basic rate taxpayer at the selected retirement age, so the reduction would equal 20%. However, as Mr C would have been able to take a tax-free lump sum, the reduction should be applied to 75% of the compensation, resulting in an overall reduction of 15%.

Aegon should provide Mr C with a clear and easily understood statement of its calculations showing the method it has used to assess the compensation he is due.

## **My final decision**

My final decision is that I uphold Mr C's complaint and direct Scottish Equitable Plc to put things right as detailed above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 26 July 2023.

Paul Reilly  
**Ombudsman**