

The complaint

Mrs G and Mr S complain that Scottish Equitable Plc trading as Aegon (Aegon) caused unreasonable delays when transferring their Aegon Group Personal Pension (GPP) to a Self-Invested Personal Pension (SIPP) with another provider.

What happened

I understand that Mr S has had a Power of Attorney (POA) in place since 2007. And that Mrs G is his attorney. Mr S had a GPP with Aegon.

On 6 February 2022, Mrs G wrote to Aegon with an original copy of passport and bank statements. And told it that Mr S had changed his address to hers. She asked it to give her access to Mr S's online account, as Mr S didn't have such access as he lived overseas.

On 15 February 2022, Mrs G sent Aegon the POA by special delivery.

Mrs G sent further documentation for Mr S to Aegon on 6 April 2022. She again confirmed that Mr S had changed his address to hers. She asked Aegon to let her know once it'd given her access to Mr S's online account.

Aegon issued its final response to the complaint about the POA taking so long to register on 2 May 2022. It agreed it had caused a delay. It said it should've written back to Mrs G by 1 March 2022 but that it hadn't responded until 11 March 2022. It said at this point, it'd requested certified copies of Mr S's passport and bank statement. But that it had received a certified copy of Mr S's passport and an uncertified copy of his bank statement on 8 April 2022. It said that having now spoken to Mrs G, it understood that the bank statement was an original document. It said that once it'd confirmed this, it would add the POA to Mr S's plan.

Aegon also said that Mr S could still access his pension online even though he was overseas. And confirmed that once the POA had been accepted, Mrs G would also be able to gain access to the plan.

Aegon sent Mr S £250 to apologise for the delay and the stress and inconvenience it had caused.

On 16 May 2022, Aegon wrote to Mrs G again. It said that the information she'd provided on 16 May 2022 didn't meet its requirements because it needed confirmation and evidence of Mr S's actual residential address before it could update the plan. It said this was a requirement under its Financial Crime Minimum Standards.

On 12 July 2022, Mrs G sent Aegon the additional evidence it needed. And on 9 August 2022, Aegon confirmed that it had now noted the POA, with Mrs G as the attorney.

Aegon issued a further final response letter covering the time it'd taken to accept the POA on 9 August 2022. It said that the delays were due to the identification being certified overseas. I understand that Mr S and Mrs G didn't pursue this complaint further.

In early 2023, Mr S wanted to transfer his GPP to a new SIPP provider. Mrs G said that the

new SIPP provider sent an Origo request to Aegon in early February 2023. But that Aegon said it couldn't answer any of her questions, as Mr S's attorney, until the POA had been registered. Mr S's pension was valued at approximately £114,000 at this time.

On 8 February 2023, Aegon's financial crime team said it should issue Mr S with a transfer out questionnaire and pension scam leaflet. It said that once the questionnaire had been returned, it should be sent on to it and that it would then advise on next steps. Aegon issued the questionnaire to Mr S the same date, explaining that it needed to complete safety checks to help protect Mr S from pension scams and to keep his savings safe. It also said that this could mean that the transfer took a little longer to complete.

On 14 February 2023, Mr S completed a UK pension transfer questionnaire. He stated that he wanted to transfer his GPP to a SIPP with a new provider.

On 16 February 2023, Mrs G returned the completed transfer questionnaire to Aegon by email and copied in Mr S. She signed the questionnaire in her position as Mr S's attorney.

On 20 February 2023, Aegon's financial crime team told it that as Mr S still had mental capacity, and as his attorney had signed the transfer questionnaire, it didn't know whether this was in line with the POA and acceptable, or if it would need to get Mr S himself to sign it. It said the question should be referred onto the ops team.

On 28 February 2023, Aegon wrote to Mrs G and Mr S to tell them it might need further information from them, and checks on the scheme they'd asked to transfer to. And that it would be in touch if it needed such information. Aegon also re-sent the questionnaire to Mr S by post to his attorney's address. But it didn't explain it had done so.

Mrs G said that the new SIPP provider followed up with Aegon in late February 2023 about the transfer. She said it was told that the transfer was currently being processed. And that Aegon would be in contact with the attorney if required.

Mrs G said the new SIPP provider followed up with Aegon again on 7 March 2023. She said Aegon told it that the team dealing with the transfer had some queries about the POA which needed to be raised with another team.

On 8 March 2023, Mrs G complained to Aegon about how long it was taking to register the POA. She said that currently no one was able to access Mr S's policy. And on 9 March 2023, she called Aegon about her complaint. The call notes recorded that Mrs G was really annoyed about the length of time the transfer was taking. And that the POA should've already been applied to the pension.

Mrs G spoke to Aegon again on 12 and 23 March 2023. She was very unhappy with the delays to the transfer and the lack of updates.

Mrs G said that after further follow up on 27 March 2023, Aegon said that the transfer was in the due-diligence stage, and had been since 9 March 2023. She said she asked for an urgent update on the transfer which detailed the delays and what Aegon still required if there was anything outstanding. She said she was told that there didn't seem to be anything outstanding, but that this could change once the team looking into the POA had responded. Mrs G said she still hadn't heard from Aegon about her POA complaint, which she said she raised on 9 March 2023.

Mrs G said that Aegon said on 4 April 2023 that there was no issue with the POA. She said she was told that the funds should've transferred on 6 February 2023. And that there would be no loss to them. And that she told Aegon that they needed to cash before 5 April 2023,

due to tax considerations.

Mrs G said that Aegon said on 17 April 2023 that the transfer was with the due-diligence team. And that it couldn't provide timescales. She also said that Aegon emailed her on 18 April 2023 to tell her that it was still completing its due diligence checks.

On 19 April 2023, Aegon sent Mr S an annual statement showing that his pension was worth £112,230.07 at 31 March 2023.

Aegon told Mrs G and Mr S that it was still carrying out its due diligence. After Mrs G questioned this, it explained that this was carried out when a request was received and it suspected something suspicious on the request. And that it involved carrying out internal and external background checks and a requirement for further documents from the requester. It also explained that its due diligence would be complete once it'd received the completed transfer indemnity form.

Mrs G and Mr S were unhappy with the delays. So they raised a complaint with Aegon. It issued the eight-week holding email on 26 April 2023. And Mrs G and Mr S referred the complaint to this service on 28 April 2023. They said that no other financial business had had any problems with the POA.

On 28 April 2023, Aegon said the due diligence checks were complete and that it was able to accept Mrs G's signature on the transfer questionnaire form. This had been the reason for the delay. But it wanted a discharge and indemnity form to be completed for the transfer.

On 1 May 2023, Aegon sent Mrs G and Mr S a declaration discharge and indemnity form to complete. This included the following sentence:

"I hold you harmless from and against all actions, claims, demands, liabilities, damages, costs, losses or expenses (including without limitation, consequential losses, loss of profit, loss of reputation and all interest, penalties, legal and other professional costs and expenses) from any source, resulting from my decision to proceed with my transfer request."

On 11 May 2023, Mrs G and Mr S told Aegon they couldn't agree to sign the form because of the sentence shown above. They felt the delay to the transfer had already caused them a loss. They said that if Aegon would agree to compensate them for the consequential losses from the date of the transfer request, they would complete the discharge and indemnity form.

On 12 May 2023, Aegon replied to say that the transfer couldn't proceed without the signed form. And that any loss couldn't be calculated until a timeline of events was established.

Mrs G and Mr S agreed to complete, sign and return the form 19 May 2023. Aegon said it received the completed form on 27 May 2023 and that it then allowed the transfer to proceed.

Aegon issued its final response to the transfer delay complaint on 31 May 2023. It apologised for its lack of communication during the transfer process. And acknowledged that this had caused considerable distress and inconvenience. It offered Mr S £200 compensation for this.

Aegon said the transfer was now proceeding. It said that it couldn't accept a transfer request without going through a due diligence process. And that as Mr S had wanted to act through his attorney, it had taken time to establish whether it could accept the attorney's signature on all of the forms. It didn't think its checks had delayed the transfer unnecessarily.

Mrs G said that the transfer finally completed on 9 June 2023. The total funds transferred were £115,149.49.

Our investigator issued her view on the complaint on 8 September 2023. She felt the complaint should be upheld. Although she acknowledged that due diligence checks were important, she felt that Aegon shouldn't have needed to take from 16 February 2023 to 28 April 2023 to complete its due diligence checks. She felt that it was unreasonable for it to have taken ten weeks to decide to accept the attorney's signature. And that it had caused an avoidable delay.

Our investigator felt that Aegon should've sent Mr S all of the necessary paperwork on 8 February 2023. And that if it'd then processed everything in normal timescales, the transfer should've been agreed and accepted on 23 February 2023. She felt that the £200 compensation Aegon had offered for the distress and inconvenience caused was fair under the circumstances of the complaint.

To put things right, our investigator felt that Aegon should put Mr S back into the position he would likely have been in, had it not been for Aegon's delays. She felt this would've meant the transfer would've been accepted on 23 February 2023 rather than the 6 June 2023 (with the 30 May 2023 valuation date).

Mrs G and Mr S didn't agree with our investigator. They felt that £200 compensation for the poor service they'd received wasn't enough. And that it should've been at least £500 due to the length of time taken and the stress caused. They also said they'd provide their own loss calculation.

Aegon didn't agree with our investigator. While in principle it agreed it'd caused a delay, it felt that delay was from 23 February 2023 to 28 April 2023 – 44 working days. And that it stopped there. It said that after 28 April 2023 it had then needed to obtain the completed discharge and indemnity form. And that the period from 28 April 2023 to 6 June 2023 shouldn't constitute any delay as this time was needed to complete the required paperwork.

Aegon proposed that any financial loss be calculated 44 working days back from 6 June 2023.

Our investigator considered what Mrs G and Mr S and Aegon had said. She still felt that the £200 compensation Aegon had offered was reasonable, as it did provide some updates over the period of the delay. And that the loss calculation she'd suggested was fair under the circumstances, as it put Mr S back into the position he should've been in but for the delays.

Aegon still didn't agree with our investigator. It felt that the further delay after 28 April 2023 was caused by Mrs G and Mr S questioning the wording of the indemnity. And that they would've always questioned the wording, regardless of any previous delays.

As agreement couldn't be reached, the complaint has come to me for a final 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.

Having done so, I'm going to uphold it. I agree with our investigator that Aegon's delays in accepting the POA continued to cause further delays after 28 April 2023. I also agree that the £200 compensation Aegon has already offered Mrs G and Mr S is reasonable under the circumstances of this complaint. I'll explain the reasons for my decision.

What's in dispute here is whether the delay for due diligence checks was fair and reasonable. Aegon also disputes that if its due diligence checks did cause unnecessary delays to the transfer, such delays ended on 28 April 2023.

I first considered whether the due diligence checks carried out by Aegon were reasonable.

Due diligence

Aegon told this service that when it receives a POA, it would normally request identification, but it wouldn't do anything more at that stage. It said it would only carry out any checks once it'd received a request to use the POA. It said this was because the checks could be different depending on what was being requested. It felt this was standard practice for most financial institutions.

I agree with Aegon that this is a standard approach.

I next considered what actually happened in this case.

Aegon said that it received a request to use the POA in February 2023. And that it'd originally closed its work item in July 2022 for the POA request as it hadn't heard back following its requests for further identification on 16 May 2022. It said there was then a delay in verifying that Mr S's identification met its requirements, given it'd been certified abroad. It said it finally had everything it needed by 9 August 2022, when it'd confirmed its acceptance of the POA to Mrs G and Mr S.

Aegon said that regarding the transfer request, it had completed initial regulatory checks and then emailed for further information. It said that Mrs G completed this, despite Mr S having full mental and physical capacity. And that as the POA was an Enduring POA, which had only been sent to it a few months earlier, it felt further checks were required before it could agree that the transfer could proceed. Aegon said these checks took longer than it would've expected to resolve. And that it had, during its investigation, discovered some points that weren't relevant. But it felt that it had a duty of care to investigate further any concerns it'd highlighted.

Aegon also said that it felt neither Mr S nor Mrs G had made any attempt to mitigate any financial loss. And that the time taken to complete the due diligence on the POA could've been avoided if Mr S had signed the questionnaire forms himself.

Our investigator asked Aegon to explain exactly why it'd taken ten weeks – from 16 February to 28 April 2023 - to accept the attorney's signature. She noted that attorneys could legally sign on behalf of their donors. And also said that as Mr S had been copied into emails by Mrs G, there was no uncertainty about whether he was aware of this transfer. Our investigator also said that Aegon's internal vetting team had confirmed that a POA did have financial powers on 29 March 2023. So she wanted to know why it'd taken Aegon a further four weeks to agree the POA signature.

Aegon said that the case was going back and forth between different teams without the risks question being answered. And that it didn't think it could justify the delay. It also said it couldn't explain why it'd taken a further four weeks to agree the POA signature after hearing from its internal vetting team.

Our investigator asked Aegon why it needed a customer's signature when it had a POA. Aegon said that its case officer wasn't sure if the POA allowed the attorney to sign the request for additional information. It said this would mean that Mr S might not be aware of the risk issues it was raising.

Our investigator also asked Aegon if it'd emailed Mr S to explain what its exact concerns were about the transfer/signature. She felt she'd only seen evidence that this was explained to Mrs G on 24 April 2023, nearly ten weeks into the delay. Aegon confirmed that it hadn't emailed Mr S to explain its concerns.

I'd first like to acknowledge that businesses are required to conduct due diligence checks if they feel a pension transfer might be suspicious. I consider they help to protect consumers. And therefore such checks are important.

But in this case, I'm not satisfied that Aegon needed to do everything it did in order to confirm that the transfer was legitimate. I agree with our investigator that as Mr S was already over 55 years old, pension liberation didn't need to be considered. And as his new SIPP provider is regulated by the Financial Conduct Authority, the transfer wasn't likely to be fraudulent.

I agree with our investigator that Aegon's only real concern was whether it could accept the attorney's signature. I can also see that Aegon has acknowledged that it should've taken less time to complete the required due diligence. So I'm satisfied that it shouldn't have taken Aegon from 16 February 2023 to 28 April 2023 to accept Mrs G's signature on the transfer out questionnaire.

I next considered when the transfer should've been processed if there'd been no avoidable delays. I consider that, having received the Origo request on 2 February 2023, Aegon should've sent out the questionnaire by email on 8 February 2023. I also think that Aegon could've sent the indemnity form at the same time. I say this because, having received the Origo request to transfer, it was already clear what Mr S's intentions were.

If Mr S/Mrs G had received all required forms by email on 8 February 2023, I think they would've returned them by 16 February 2023 – this is the date the questionnaire was returned. Once received, Aegon would still have needed to carry out relevant due diligence as Mrs G would've signed the forms. But I think it should've taken Aegon no longer than five working days to do so. Therefore the transfer should've been agreed and accepted on 23 February 2023.

I acknowledge that Aegon considers it's only responsible for a delay from 23 February 2023 to 28 April 2023. But I don't agree.

I say this because, if Aegon hadn't caused any delay, I consider that Mrs G and Mr S wouldn't have been concerned about completing the indemnity. I appreciate that Aegon doesn't agree, but I'm more persuaded that, if nothing had gone wrong, Mrs G and Mr S would've simply completed and returned the indemnity form as soon as they received it, as they did with the transfer questionnaire form.

I finally considered whether Aegon's offer of £200 for the distress and inconvenience it'd caused Mrs G and Mr S was fair and reasonable under the circumstances.

Distress and Inconvenience

I understand that Aegon has paid Mr S £200 compensation for the distress and inconvenience its lack of communication during the transfer process had caused him and Mrs G. They have both clearly been inconvenienced during the transfer process.

From what I've seen, I consider this is a reasonable offer. I say this because Aegon did provide some updates over the period of the delay, although its responses weren't always complete. I also consider that the £200 Aegon has paid is in line with what I would've

otherwise recommended. So I can't reasonably ask it to increase its offer.

Putting things right

My aim is that Mr S should be put as closely as possible into the position he would probably now be in if the transfer had gone ahead without unnecessary delays.

To compensate Mr S fairly, Aegon must:

- Compare the actual value of Mr S's SIPP with his new provider at the date of my final decision with the notional value, as if the transfer had proceeded on 23 February 2023 and had been invested within the SIPP on 27 February 2023. However, Aegon should confirm with Mr S's new provider how long it took to receive the funds after the 6 June 2023 and how long it took it to invest them once it'd received them. This might affect the start of the calculation date.

If the calculation date is different to the 27 February 2023 (taking into account the above) then Aegon will need to explain why to Mr S. Also, the calculation should consider any contributions and withdrawals made into the SIPP after 6 June 2023.

If the fair value is greater than the actual value there is a loss and compensation is payable.

- Aegon should also add any interest to the compensation payable of 8% simple per year from the date of my final decision to settlement (if not settled within 28 days of the business receiving the complainant's acceptance).
- Aegon should pay into Mr S's SIPP to increase its value by the total amount of the compensation and any interest. 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 S's SIPP, it should pay that amount direct to him. But had it been possible to pay into the plan, it would've provided a taxable income. Therefore the total amount should be reduced to *notionally* allow for any income tax that would otherwise have been paid. This is an adjustment to ensure the compensation is a fair amount – it isn't a payment of tax to HMRC, so Mr S won't be able to reclaim any of the reduction after compensation is paid.
- The *notional* allowance should be calculated using Mr S's actual or expected marginal rate of tax at his selected retirement age.
- For example, if Mr S is likely to be a basic rate taxpayer at the selected retirement age, the reduction would equal the current basic rate of tax. However, if Mr S would've been able to take a tax-free lump sum, the reduction should be applied to 75% of the compensation.

As Mr S currently doesn't live in the UK he may not be a taxpayer. If so, he'll need to evidence this to Aegon.

Income tax may be payable on any interest paid. If Aegon deducts income tax from the interest it should tell Mr S how much has been taken off. Aegon should give Mr S a tax deduction certificate in respect of interest if Mr S asks for one, so he can reclaim the tax on interest from HM Revenue & Customs if appropriate.

My final decision

I uphold the complaint. My decision is that Scottish Equitable Plc trading as Aegon should pay the amount calculated as set out above.

Scottish Equitable Plc trading as Aegon should provide details of its calculation to Mrs G and Mr S in a clear, simple format.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs G and Mr S to accept or reject my decision before 27 November 2023.

Jo Occleshaw
Ombudsman