

## **The complaint**

Miss G and Mr G are unhappy with the way that Scottish Equitable Plc trading as AEGON (Aegon) distributed the death benefits from their late father's pension.

## **What happened**

Miss G and Mr G's late father had a stakeholder pension with Aegon. In 2008, he completed a beneficiary nomination form, naming his then partner, Miss G and Mr G's mother, as the sole beneficiary of the pension.

Subsequently, Miss G and Mr G's parents divorced, but remained on good terms. They both attended family functions and the late Mr G remained as an additional card holder on one of their mother's credit cards.

Miss G and Mr G's father then moved in with his new partner, who I will refer to from now on as Ms S. Their mother and Ms S had almost identical names, with only their middle names differing. During the time their father lived with his new partner, he paid her around £500 a month from at least 2020.

Sadly, Miss G and Mr G's father passed away in November 2021.

Following his death, his new partner contacted Aegon in December 2021 to inform them of his death. Miss G and Mr G were both named as next of kin and family.

In March 2022 Aegon asked Miss G and Mr G to complete a questionnaire to confirm their father's marital information and to list all potential beneficiaries. This was completed in May 2022 and named Miss G, Mr G, their grandmother, and their aunt. Their mother was not included in the questionnaire, but they mentioned on the form that their father lived with his partner, but she wasn't dependent, and he didn't pay any household bills.

Aegon progressed the claim and asked for evidence of financial dependency or interdependency from Ms S, which was received. It was explained that the monthly payments of £500 went towards paying the bills and that the utilities were set up in Ms S's name as she'd lived there for a long time prior, but the home insurance was in the late Mr G's name.

Aegon subsequently decided to pay the full death benefits to Ms S. Miss G and Mr G were informed by email on 9 November 2022 of this decision, and it was explained that Aegon reached this decision because of the financial inter-dependency of the late Mr G and Ms S, and they also said this would be in line with his beneficiary nomination. It later transpired that the late Mr G had not update the beneficiary form. Miss G and Mr G pointed out to Aegon the similarity of the names between their mother and Ms S and said Aegon had made a mistake in the payment.

Miss G and Mr G made a data subject access request and after receiving the requested information complained to Aegon on 15 June 2023. They said that Aegon had not properly

applied their due diligence and had gone against or ignored their father's wishes which led to the wrong person being paid.

Aegon issued their final response on 8 August 2023. This acknowledged that the person named in the original beneficiary nomination was not the person to whom the benefits were paid. But it also explained that Aegon reached its decision based on the evidence provided by them and Ms S and that Aegon weren't legally bound to follow the beneficiary nomination. Aegon said they were entitled to use their discretion and also pointed out that Miss G and Mr G's mother was not included as a potential beneficiary on the form they provided.

Unhappy with this response, Miss G and Mr G referred their complaint to this Service for an independent review. One of our investigators looked into things but was of the view that Aegon hadn't done anything wrong requiring that they look at the claim again. The investigator was persuaded that Aegon was entitled to use their discretion and in doing so had considered all the available information when coming to their decision to make the death benefit payment to the late Mr G's partner at the time of his passing.

Miss G and Mr G didn't agree with the investigator, so the complaint has been passed 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.

Miss G and Mr G believe that Aegon made a mistake when distributing the death benefits from their late father's plan. They feel his wishes had been clearly expressed in his 2008 death benefit nomination form, which named their mother as the sole beneficiary of his plan. But Aegon say they correctly distributed the benefits after taking all relevant factors into account.

So the question that I need to answer is whether or not Aegon fairly and reasonably discharged their duties in terms of how they decided to distribute the death benefits owed from the pension plan.

It's clear that Miss G and Mr G feel strongly about what happened and that the subject matter of this complaint is emotive. Whilst I've taken into account everything they've submitted about the background to this situation, my decision focuses on what Aegon did.

Pension plans aren't part of an individual's estate. So Aegon, as the administrator of this pension plan, have the responsibility and discretion of deciding who receives the death benefits.

In exercising their discretion, Aegon could take into account - but didn't have to follow – the late Mr G's wishes. These were detailed on his 2008 death benefit nomination form.

The death benefit nomination states:

*This is who you would like to initially benefit from your Account if you die before taking your pension benefits. We will treat the information on this form as confidential.*

...

*I understand that you will take my wishes into account when paying any lump sum death benefit, but you are not legally obliged to follow my wishes.*

I consider this wording to be clear in explaining that Aegon retains discretion on how death benefits are distributed. But I would only expect Aegon to exercise any discretion after a thorough investigation.

So, Aegon needed to properly investigate the position in respect of potential beneficiaries. Miss G and Mr G submitted a questionnaire that listed no financial dependants of the late Mr G. And Ms S submitted information that Aegon considered showed a financial inter-dependency. I'm persuaded that Aegon has given due consideration to the statements and evidence provided by the relevant parties.

Follow their investigations, Aegon didn't pay out the benefits in accordance with the late Mr G's 2008 beneficiary nomination form. But this was completed more than 10 years before Mr G's passing and while he was still married. Circumstances changed during this time, Mr G got divorced and later began cohabitating with his new partner Ms S.

Based on all the evidence Aegon obtained from the relevant parties, including Miss G, Mr G and Ms S, I haven't seen anything to conclude that Aegon acted unreasonably in allocating the funds as they did. So it wouldn't be reasonable for me to ask them to reconsider their decision here. It's not the role of this service to replace the discretionary judgement Aegon are entitled to make with our own judgement.

I understand Miss G and Mr G feel strongly about this and that this outcome will come as a disappointment. Whilst I sympathise with their position, I can't fairly and reasonably conclude that Aegon did anything wrong when it distributed the benefits from their late father's pension to Ms S. So I won't be asking it to do anything more.

### **My final decision**

For the reasons set out above, I don't uphold Miss G and Mr G's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss G and Mr G to accept or reject my decision before 22 April 2024.

Jennifer Wood  
**Ombudsman**