

## The complaint

Mr T has complained about delays caused by Scottish Equitable Plc (trading as Aegon) during the switch of his pension.

## What happened

Mr T wanted to switch his pension from Royal London to Scottish Equitable. I outline what I consider to be the relevant chronology of events in respect of the switch.

**3 April 2023** – Scottish Equitable wrote to Mr T confirming that his pension application was being processed. It asked him to check a *Confirmation of Application* document and to contact it if any of the information was incorrect.

**2 May 2023** – Mr T contacted Scottish Equitable for an update. Scottish Equitable said it was waiting to receive Mr T's signed transfer authority form.

**3 May 2023** – Mr T emailed the form to Scottish Equitable. The figure "2,114" was pre-printed alongside "Estimated transfer amount". Alongside 2,114 ">£5400?" was handwritten. The form also said "£2500 to be retained" in Royal London's pension.

**25 May 2023** – Mr T spoke with one of Scottish Equitable's advisors to get an update. The advisor couldn't find the form Mr T had previously sent so Mr T re-sent it directly to the advisor.

**26 May 2023** – Scottish Equitable asked Mr T to clarify the amount that needed switching ie £2,114 or the full amount less the £2,500 to remain with Royal London. It also asked him if he'd received guidance or financial advice. Mr T confirmed it was a partial switch and that £200 should be left with Royal London. He also said the amount switched should be at least £8,000 and possibly £11,500.

**30 May 2023** – Scottish Equitable again asked Mr T whether he'd received guidance or advice. Mr T said he was "highly qualified for pensions".

**31 May 2023** – Scottish Equitable started the switch process.

**21 June 2023** – Royal London sent the funds to Scottish Equitable.

**23 June 2023** – Scottish Equitable received the funds.

**28 June 2023** – the funds were invested into Mr T's chosen investment fund.

Mr T then instigated a switch from Scottish Equitable to another provider. The funds were switched to the new provider on 13 July 2023.

Scottish Equitable told us it had no record of receiving Mr T's email on 3 May. So it disagreed with his assertion that it caused delays in the process. It said that as soon as it received the signed form on 25 May it proceeded with the switch request without delay.

Alongside this complaint Mr T also complained to Royal London about delays it caused in the process. Royal London accepted it had delayed things, but it calculated that the delays hadn't caused Mr T any investment loss. It nevertheless offered him £300 compensation as a gesture of goodwill for the delays and frustration caused.

Our investigator felt the complaint should be upheld. He outlined a formula that Scottish Equitable should follow to calculate any financial loss Mr T suffered as a result of the delay. He also felt it should pay Mr T £250 compensation for the unnecessary inconvenience he was put to. Scottish Equitable agreed with our investigator's findings but Mr T didn't. He disagreed with the dates our investigator had used in his settlement formula and he felt £300 was more appropriate compensation.

Our investigator changed the formula for calculating any financial loss Mr T had suffered (to take account of delays caused by Scottish Equitable and Royal London). He remained of the view that £250 was fair compensation. Scottish Equitable agreed with the revised formula. Also, in an attempt to resolve the matter without the need for an ombudsman's decision, it offered to increase the compensation to £300. Mr T agreed with the revised compensation offer but not with the restriction on it only being available prior to referral to an ombudsman. He continued to disagree with the investigator's formula.

### **What I provisionally decided – and why**

I issued a provisional decision which explained why I thought the complaint should be upheld. The relevant parts of my provisional decision are outlined below and form part of this final decision.

#### *Delays*

- I felt there were two main areas where Scottish Equitable could have done things better. The first was the letter it sent to Mr T on 3 April. This said all Mr T needed to do was check the information in the "Confirmation of Application" was correct. As the transfer authority form also needed signing I felt the letter ought to have made Mr T aware of this too. The second concerned Mr T's email on 3 May attaching the transfer authority form. Mr T provided us with a screenshot of his 'sent items' and based on this I was satisfied the form was sent to Scottish Equitable by email on 3 May at the latest and that Scottish Equitable most likely received it.
- Mr T felt Scottish Equitable caused other delays. The first was the information it entered on the transfer form to Royal London, which he felt led to Royal London unnecessarily questioning how much needed transferring. When looked at in isolation I thought the transfer authority form was confusing as it contained three different figures in respect of the potential transfer amount. The form Scottish Equitable submitted to Royal London said "*Please leave £200 in plan*" and that the approximate value of the transfer was £2,114. But Mr T had already told Scottish Equitable that the transfer should be at least £8,000 and potentially £11,500. We asked Royal London what it would have done if the form said the value was something along the lines of "at least £8,000 possibly £11,000" and whether it would have led to the funds being paid to Scottish Equitable any quicker. It told us it possibly would have needed to clarify the transfer amount anyway as a partial request and a value would have been quoted. With this in mind, I wasn't persuaded that any error in Scottish Equitable quoting the transfer amount as £2,114 led to a delay.
- The second was Scottish Equitable asking for information about whether Mr T had received advice, which Mr T felt should have been requested at the start of the process. There was an argument that if Scottish Equitable needed confirmation about whether

Mr T had received advice it could have, and probably should have, asked him when it sent the original letter on 3 April. However, I wasn't persuaded not doing so led to any unnecessary delays. This was because Scottish Equitable had to clarify the transfer amount anyway on 26 May. So it also asking for this further information at that point didn't delay things – as it needed to wait for Mr T's clarification on the transfer amount it made no difference that it also needed to wait for confirmation about any advice. The advice confirmation wasn't received until 30 May, but I thought that was more down to Mr T not fully responding to Scottish Equitable's request on 26 May rather than due to it having to make the request in the first place.

- The third was after receiving the information about him receiving advice Scottish Equitable didn't start the transfer request until the following day. I didn't think this was an unreasonable delay.
- For the above reasons, I concluded that:
  - Scottish Equitable caused delays by not telling Mr T on 3 April that he needed to complete a transfer authority form and by not acting upon receipt of the form on 3 May, and
  - once the re-sent transfer authority form was received on 25 May Scottish Equitable processed its part of the switch without any unreasonable delay.

#### *What should/would have happened*

- Mr T acted promptly once he became aware that he needed to complete a transfer authority form and once he became aware that Scottish Equitable couldn't find the form he'd sent on 3 May. Accordingly, I thought it was fair to conclude that he would have acted equally promptly had Scottish Equitable clearly explained what he needed to do in its letter dated 3 April. With that in mind, I thought it was most likely that Scottish Equitable would have received Mr T's signed form on or around 5 April. And Scottish Equitable ought to have then started the transfer two working days later ie on 11 April.
- From there, I thought it was likely the switch process would have proceeded pretty much in the same manner that it actually proceeded. So, it was most likely that:
  - Scottish Equitable would have received the funds from Royal London on 8 May rather than on 23 June, and
  - the funds would have been invested into Mr T's chosen investment fund on 11 May rather than on 28 June.
- Mr T told us he only opened the new pension (after the switch to Scottish Equitable) as he was frustrated with Scottish Equitable's delays. Accordingly, there wouldn't have been any further arrangement in place if the delays hadn't occurred. He therefore felt the original dates for the selling of his investment to cash and for the switch the new account should be used in any redress calculations.
- It was impossible for me to know for sure whether Mr T would have opened a new pension regardless or whether he would have stuck with Scottish Equitable had this switch gone smoothly. However, I could see and hear Mr T's frustration when he was chasing Scottish Equitable so what he said about the reason for switching again didn't seem implausible and I had no reason to doubt what Mr T had said. But I didn't think this meant the original 'switch out' dates should stand because had there not been a delay Mr T would have most likely have stayed with Scottish Equitable.

I outlined what Scottish Equitable needed to do to calculate whether Mr T had suffered a financial loss due to the delay and how it should pay compensation for this loss. I also explained why I didn't think there were grounds to require Scottish Equitable to pay Mr T any compensation for distress and inconvenience:

- Scottish Equitable's mistakes led to the switch of roughly £8,000 being delayed by about seven weeks. It was clear Mr T had to contact Scottish Equitable twice to chase what was happening with the switch. I also thought it was clear that not knowing what was happening would have caused him some concern.
- Mr T felt £300 more accurately reflected the distress and inconvenience he'd suffered. I agreed, to an extent. In my view, £300 *in total* was suitable compensation for the trouble he was put to. And as Royal London had already paid Mr T £300 I didn't think there were grounds to make Scottish Equitable pay anything further. Had I been considering both complaints alongside each other £300 in total is in the ballpark of what I'd probably have awarded.

### **Responses to my provisional decision**

Scottish Equitable agreed with my provisional decision. Mr T didn't agree with it. He mainly disagreed with my dates as to what should have happened and with my proposal to offset any compensation against what he'd already received from Royal London.

### **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.

There are two main issues for me to address – my proposed timeline of what should have happened and my proposal to offset compensation for distress and inconvenience.

#### *The timeline*

The hypothetical timeline in my provisional decision for what should have happened was based on Scottish Equitable receiving the signed transfer form on or around 5 April and the switch process proceeding from there along the lines of how it actually proceeded. Mr T has made some comments on this and having considered the matter further I've revised my position.

I remain of the view that the starting point for the switch process was when Scottish Equitable wrote to Mr T on 3 April. In my view, the letter should have explained that Mr T needed to complete the transfer authority form and it should have asked whether he'd received guidance or financial advice. Had that happened it's most likely that Mr T would have provided Scottish Equitable with the transfer form and confirmed the situation regarding the financial advice the following day.

Mr T says, and I have no reason to doubt him, that the transfer authority form wouldn't have had differing figures because on 3 April £2,114 was all that was available to transfer. Scottish Equitable ought therefore to have known how much needed to be switched and it wouldn't have needed to check/clarify the transfer figure. I therefore think Scottish Equitable ought to have started the switch process on/by 6 April.

It's good industry practice for switches such as the one here to take 10 working days. So on that basis Scottish Equitable ought to have received the funds from Royal London on 18

April. And, using the same time scale as what actually happened, the funds would have been placed into the underlying investment on 21 April.

This timeline assumes that Royal London wouldn't have needed to clarify the transfer amount with Mr T and/or wouldn't have otherwise delayed the process. In response to my provisional decision Mr T told me he's continued to make regular monthly partial switches from Royal London where he's given an estimated value and confirmed that £200 should remain with Royal London. He says this has always led to the correct transfer without Royal London making further enquiries with him. Based on that he feels a switch starting on 6 April as outlined above would have proceeded without any problems.

The only reason I can see that Royal London queried the switch amount with Mr T was because of the information on the form submitted by Scottish Equitable. But in the above situation the form would have been clear because the transfer form Mr T completed would also have been clear. I therefore agree it's likely that Royal London would have processed the switch without undue delay.

With the above in mind, I conclude that what should have, and most likely would have, happened was:

**3 April** – Scottish Equitable told Mr T he needed to complete the transfer authority form and asked whether he'd received guidance or financial advice

**4 April** – Mr T provided Scottish Equitable with the transfer form and confirmed the situation regarding the financial advice

**on/before 6 April** – Scottish Equitable started the switch process

**18 April** – Scottish Equitable received the funds from Royal London

**21 April** – the funds were invested.

I've revised the redress based on these dates (see below).

### *The compensation*

Mr T said both Royal London and Scottish Equitable caused him unnecessary distress and inconvenience and the compensation from Royal London was separately agreed as part of another complaint. He also said he will be financially disadvantaged by accepting Royal London's offer before concluding this complaint. And he questioned why Royal London should have to pay the total compensation given Scottish Equitable's failures.

Any redress I award is to try and put a consumer as close as possible back into the position they would have been in but for a business's wrongdoing. So in simple terms, if a consumer had suffered a financial loss I would require the business to compensate the consumer for that financial loss.

In this case, if it was a financial loss of £300 that Mr T had suffered (rather than distress and inconvenience) because of the delays caused by *both* Royal London and Scottish Equitable, and had Royal London happened to have already compensated him in full for that loss, it would be completely inequitable and unfair for Mr T to receive another £300 from Scottish Equitable for the same loss. That's because he would effectively be compensated twice. So although it would have been Royal London that reimbursed the loss it would remain that Mr T would have been fully compensated. My concern in considering a complaint would solely be that Mr T was compensated for his loss – it wouldn't matter to me which business

paid which proportion of the compensation (that would be for the two businesses to sort out if one felt the other should contribute).

In my view, the hypothetical situation I've described in the above paragraph is no different to the situation in this case with the distress and inconvenience Mr T has suffered. Mr T only suffered a finite amount of distress and inconvenience due to the delay in his pension being switched. And as long as he's been satisfactorily compensated for that distress and inconvenience then I don't think it matters whether he received that compensation from Royal London, from Scottish Equitable or from both. I don't think it's fair that he be 'over' compensated simply so that both businesses contribute.

It remains my opinion that the total distress and inconvenience Mr T suffered is only 'worth' £300 compensation – which is what he's received. Accordingly, I disagree with Mr T's view that he will now be financially disadvantaged by accepting Royal London's offer.

So with the above in mind I remain of the view that there aren't any grounds to require Scottish Equitable to pay Mr T further compensation.

### *Miscellaneous*

Mr T mentioned that I hadn't addressed his comments about Scottish Equitable's failure to act on his complaint and its inability to provide us with the all the necessary information at the outset.

I can only consider complaints about *regulated activities*. Accordingly, my authority over Scottish Equitable is only in respect of the complaint issue itself ie the delays in the switch. Complaint handling (eg how a business considers a complaint, the length of time it takes to consider it, whether it considers the complaint at all, how it interacts with us) isn't a regulated activity. I therefore make no comment on the points Mr T has raised.

### **Putting things right**

#### *Calculation of financial loss*

My aim is to put Mr T, as far as possible, back into the position he would have been in had the switch proceeded as outlined under the 'The timeline' heading above. I think the fairest way of doing this is to compare the value of Mr T's current pension with the value that it would have been had Scottish Equitable received the funds from Royal London on 18 April 2023.

In order to calculate whether Mr T has suffered a loss a comparison will need to be made between the actual value of Mr T's pension and the notional value of what it would be worth but for the delays. Scottish Equitable should therefore:

- 1) Determine the amount it would have received from Royal London on 18 April 2023.

Mr T continued to make regular contributions into the Royal London pension beyond 18 April 2023. So the amount that would have been switched to Scottish Equitable on 18 April 2023 would have been less than the amount it actually received on 23 June 2023. These extra contributions need accounting for in the loss calculations.

- 2) Determine the date and amount of any extra contribution paid into the Royal London pension between 18 April 2023 and 21 June 2023 (ie the date the funds were actually sent to Scottish Equitable).

3) Calculate the notional value of Mr T's pension now had:

- a. the funds in (1) above been invested (and remained) in Mr T's chosen fund on 21 April 2023
- b. the funds in (2) above been invested (and remained) in Mr T's chosen fund 13 working days after each contribution was paid to Royal London (this allows 10 working days for the switch to complete and three working days for the funds to be invested).

4) Determine the actual value of Mr T's pension now.

5) Provide Mr T with a clear explanation of the above calculations.

If the figure calculated at (3) is greater than the figure determined at (4) there will have been a loss and compensation is payable.

If the figure calculated at (3) is lower than the figure determined at (4) there won't have been a loss and no compensation is payable.

#### *Payment of any compensation for financial loss*

If there is a loss Scottish Equitable should pay the compensation into Mr T's pension plan, to increase its value by the amount of the compensation. The payment should allow for the effect of charges and any available tax relief. Scottish Equitable shouldn't pay the compensation into the pension plan if it would conflict with any existing protection or allowance.

If Scottish Equitable is unable to pay the compensation into Mr T's pension plan it should pay the amount directly to him. But had it been possible to pay into the plan it would have provided a taxable income. Therefore, the compensation 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 T won't be able to reclaim any of the deduction after compensation is paid.

The notional allowance should be calculated using Mr T's actual or expected marginal rate of tax at his selected retirement age. Mr T has told us – and Scottish Equitable hasn't challenged it – that he will be a basic rate taxpayer in retirement. So the marginal rate of tax would be 20%. However, if Mr T 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%.

#### **My final decision**

I uphold this complaint. I require Scottish Equitable Plc trading as Aegon to pay Mr T compensation as outlined under the 'Putting things right' heading above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr T to accept or reject my decision before 11 July 2024.

Paul Daniel  
**Ombudsman**