

## The complaint

Mr S complains that Scottish Equitable Plc trading as Aegon (Aegon) delayed the setting up of his pension annuity with Legal & General (L&G) giving rise to additional income tax liabilities of £332.49 and causing him inconvenience. He wants the tax costs reimbursed and compensation of £1,000.

## What happened

Mr S had a s32 plan with Aegon. This provided for a Guaranteed Minimum Pension (GMP) to be paid from an annuity from his 65<sup>th</sup> birthday on 26 February 2024. If the value of the plan was less than required to meet the cost of the GMP, which it was, Aegon was required to pay the difference. Aegon sent various letters to Mr S in the months before his 65<sup>th</sup> birthday confirming the details and advising that it no longer offered annuities. But that it had an arrangement with L&G to do so, which if he used then the full cost of the GMP would be honoured. Aegon asked Mr S to contact L&G to start the process. The shortfall in policy value needed to meet the GMP was over £100,000.

Mr S contacted L&G and it requested the transfer value from Aegon through the Origo system on 26 February 2024, to set the annuity up. Aegon paid £78,910.03, by BACS to L&G on 14 March 2024. This was the plan's current value, referred to as the Reserve Fund and didn't include the shortfall needed to meet the full GMP cost. On 26 March 2024 L&G asked Aegon to pay it £119,758.99 to cover the shortfall and Aegon paid this the next day. L&G completed setting up Mr S's annuity and made the first payment on 9 April 2024. This included two backdated monthly payments to the start date of 26 March 2024 of £831.22 each before tax.

Mr S says had the monthly payments for February and March been made before the end of the tax year on 5 April 2024, the balance of his personal tax allowance was available and no income tax would be due. Instead, he paid tax of £332.29 in the 2024-2025 tax year, as his income had increased with other pensions also coming into payment. Mr S raised a complaint about this with Aegon in June 2024.

Aegon didn't accept the complaint and Mr S challenged this and a number of exchanges followed. Aegon said it didn't know when Mr S had first contacted L&G, but it hadn't received the request to transfer until 26 February 2024. And it had paid the Reserve Fund value on 14 March 2024, which was inside its 15 working day service standard. It said it had then promptly paid the balance required to fully fund the GMP once L&G requested this on 26 March 2024. It said it wasn't responsible for how long L&G had then taken to set the annuity up and make payments. But it appeared L&G had correctly backdated the annuity start date to 26 February 2024. Mr S made a number of further points. Aegon said having had multiple staff review what had happened, it was satisfied it hadn't made any errors and couldn't accept the complaint.

Mr S referred his complaint to our service and our investigator looked into it, and he said it should be upheld.

Our investigator said whilst it wasn't clear what L&G had done, he didn't think Aegon had processed the initial part of the annuity payment to L&G promptly enough. And had it made payment in an appropriate timescale it was reasonable to assume that L&G would have taken the same length of time to complete its own checks and calculations and would have requested the shortfall balance sooner. So, the annuity would have been set up before 5 April 2024 with the backdated payments for February and March 2024 paid in the 2023-2024 tax year. And, if what Mr S said about his tax position was correct, he wouldn't have incurred income tax liabilities on this income.

Our investigator said Aegon had made the first payment to L&G 13 working days after it received the Origo request, which L&G had chased on 12 March 2024. And it would then be two to three working days for the BACS payment to clear. He said guidance issued by the industry wide Transfers and Re-registrations Industry Group (TRIG) suggested a ten-business day timeframe including any BACS payment for this type of transfer, and Aegon was well outside this. He said once Aegon sent the second payment, L&G set the annuity up and made payment within nine working days. So, if Aegon had completed the first part of the transfer within the maximum ten working day guidelines set out by TRIG, then the L&G annuity would have been set up and paid by 4 or 5 April 2024 at the latest. He said it was fair that Aegon should re-imburse the tax incurred and pay Mr S £250 for the distress and inconvenience he'd been caused. In terms of a number of other complaint points raised by Mr S, our investigator said he didn't think Aegon had acted unfairly.

Aegon didn't agree. It said our service had previously referred to the TRIG guidance as being something that promoted good practice. With ten working days being an aspiration rather than a regulatory rule and that exceeding this timeframe by a short time wouldn't warrant compensation. Our investigator said he understood that the TRIG guidance was good practice and was supported by the financial regulator (the FCA). He said from the evidence this was a simple cash transfer (the s32 having been moved to cash on Mr S's 65<sup>th</sup> birthday) and shouldn't have taken longer than ten working days to complete including the bank transfer. Aegon still didn't agree.

As Aegon doesn't agree it has come to me to decide.

### **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 am upholding the complaint.

Our service considers each complaint on its own merits to decide what is fair and reasonable in the circumstances. Here I think Aegon did take too long to complete the first part of the transfer. And this did delay the annuity being set up. Aegon had the details and knew that further funds would need to be sent to L&G to complete the process. Aegon's records around the first transfer include an estimate of what additional shortfall payment would be required. And it knew the annuity was to be set up from age 65, which was 26 February 2024. I think that might reasonably have prompted Aegon to prioritise the Origo request from L&G. It didn't do so, and actioned this after 13 working days with the payment sent by BACS, which would take another two to three working days (although possibly as long as five days) to reach L&G.

That is well outside the reasonable maximum of ten working days, including bank clearing times, set out in the TRIG guidance for this sort of straightforward transfer. As Aegon has said this timeframe isn't a regulatory rule and it says its own service standard is fifteen working days, seemingly not including the payment clearing. But I don't think that is a fair

and reasonable time to process a straightforward transfer, particularly in the circumstances here. There doesn't appear to have been any missing information or issues with the request made by L&G that might explain why the transfer should take longer than ten working days to process. Based on what did happen subsequently it does appear that L&G would have otherwise completed setting up the annuity and made payment of the income due for February and March 2024, before the end of the 2023-2024 tax year. If the late payment of this income has given rise to tax liabilities that wouldn't otherwise have been incurred it's reasonable that Aegon compensate Mr S for that, and I'll set out how it should do that below.

Aegon's continued insistence that it processed the transfer in a reasonable time, combined with initially rather vague, but I don't think deliberately so, explanations of what had happened when and the processes involved, gave rise to substantial exchanges between Aegon and an increasingly exasperated Mr S. But I don't think Aegon has been untruthful or lied to him as he's said. And there is no evidence it has mismanaged his plan. When the plan started in 1993, future investment returns were generally expected to be higher than they have proved to be. And annuity rates have also reduced, greatly increasing the cost of providing the GMP pension over what was initially anticipated. But this hasn't impacted the benefits Mr S was entitled to as Aegon has honoured the guarantees it provided under his plan, by meeting the full cost of the GMP pension.

Mr S also queried why Aegon had received an introducer fee or commission of more than £7,000 from L&G, which he says it shouldn't have done. As Aegon has said that is an arrangement between the two businesses. And as Mr S's GMP was very significantly underfunded, Aegon has effectively paid this fee itself through needing to make the shortfall payment, which presumably would have been less but for the introducer fee. So, again this hasn't impacted the benefits Mr S was entitled to under his s32 plan.

But I do think Mr S was caused distress and inconvenience by what happened, and it's fair that Aegon pays him £250 compensation for this. This amount of compensation is in keeping with the level of award our service would make in similar circumstances. I'm aware Mr S wants more compensation than this, in part in respect of a loss of return he feels he's suffered on the total value of the sum transferred to L&G due to the delay in the income being paid. But I don't think that is fair. If the L&G annuity income payments have been backdated to 26 February 2024, then Mr S has received all the income he was entitled to, so there isn't a loss here. And, it wouldn't be fair to award a "double" return by also paying interest on the capital sum involved in purchasing the annuity. The annuity was always going to take some time to set up and L&G didn't request funds until 26 February 2024, so even without the avoidable delays caused by Aegon, would have only made payment a few days earlier than it did in any case. His loss is primarily any additional tax Mr S has paid and the distress and inconvenience caused.

### **Putting things right**

My aim in awarding compensation is to put Mr S back into the position he should have been in but for any errors made by Aegon.

If Mr S has suffered additional tax liabilities, it's fair that these be re-imbursed along with interest given that he has been deprived of the use of these funds. To enable any loss to be calculated by Aegon, Mr S will need to provide it with evidence of his tax position and income in the tax years 2023-2024 and 2024-2025, and it's likely that this information is now available from HMRC.

Aegon must then calculate the amount of any additional tax incurred as a result of the late payment of the February and March 2024 income from the L&G annuity assuming that these payments would have been made on 5 April rather than 9 April 2024. If more tax was paid

this is Mr S's loss, and Aegon must then add interest at 8% per year simple from 5 April 2024 to the date it makes settlement to Mr S.

If Aegon considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mr S how much it's taken off. It should also give Mr S a tax deduction certificate if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate.

Aegon must provide Mr S with a simple calculation showing how it worked out the figures.

Aegon must pay Mr S £250 compensation for the distress and inconvenience he's been caused.

### **My final decision**

My final decision is that I uphold the complaint against Scottish Equitable Plc trading as Aegon.

I direct Scottish Equitable Plc trading as Aegon to undertake the calculations set out above and pay any compensation accordingly.

I further direct Scottish Equitable Plc trading as Aegon to pay Mr S £250 in compensation for the distress and inconvenience he's been caused.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 24 July 2025.

Nigel Bracken  
**Ombudsman**