

## The complaint

Mr D has complained that the information he was provided with by Scottish Equitable Plc trading as Aegon relating to taking a payment from his pension benefits led to him incurring a tax charge, and impacted his ability to make further payments into his pension.

## What happened

I have previously issued a provisional decision regarding this complaint. The following represents excerpts from my provisional decision, outlining the background to this complaint and my provisional findings, and forms part of this final decision:

*“Mr D has a self-invested personal pension (‘SIPP’) with Aegon. In October 2022 he requested £25,000 tax-free cash (‘TFC’) from his policy. Aegon explained that to make this withdrawal he would need to use its Aegon Assist service, which provides guidance on Aegon products on a non-advised basis. Having contacted Aegon Assist, Mr D received £25,000 TFC from the uncrystallised policy held under his SIPP. At the same time, £75,000 was moved from the uncrystallised policy to be invested in a drawdown policy also held within the SIPP. The uncrystallised policy and the drawdown policy had different account numbers.*

*On 14 February 2024 Mr D contacted Aegon to say that he wanted to release further TFC. He was told that he’d need to speak to Aegon Assist again, and a phone appointment was booked for 15 February. However Aegon Assist did not call Mr D at the agreed time, and so he rang Aegon on 15 February. During this call Aegon arranged to send Mr D an “ad hoc income request” form to withdraw funds from his drawdown account. Mr D then completed and returned that form.*

*Further contact occurred between Mr D and Aegon regarding what Mr D’s correct email address was, and relating to further details Aegon said it needed for the withdrawal.*

*On 1 March Mr D received confirmation from Aegon that he had been paid an amount from the drawdown account, and that this had been taxed. He had been paid £46,564.64 net, with tax of £35,149.50 being deducted. By the time Mr D read Aegon’s email about the payment its office was closed for the weekend, and so Mr D had to wait until 4 March to contact the business and ask why he’d incurred tax. Aegon responded that funds paid from a drawdown account cannot provide any tax-free amounts, and are therefore subject to tax.*

*Mr D complained to Aegon on 4 March. In an email he confirmed he’d taken a small part of his TFC in October 2022, and he said “the remainder was in a draw down account”. Mr D said his initial phone request had been “for the tax free element to be accessed”, but that Aegon had “accessed the taxable drawdown account instead”.*

*Mr D also sent a letter of complaint on 4 March. This said that in his call on 14 February, he had asked to withdraw TFC, but the withdrawal had been taken from the wrong account. Mr D asked that the withdrawal be reversed and that Aegon reimburse him for any tax he’d incurred. In light of a suggestion made by Aegon that Mr D seek financial advice, he asked that Aegon cover the cost of this advice.*

*Taking income from the drawdown account triggered the Money Purchase Annual Allowance (MPAA) for Mr D, limiting him to a yearly pension contributions limit of £10,000. After Mr D questioned this, Aegon emailed him on 14 March to say that regarding “triggering you [sic] MPAA incorrectly, I have removed the trigger for you to reflect as per your request.”*

*On 20 May Aegon responded to Mr D’s complaint. It accepted that it had made an error in its attempts to book Mr D a phone appointment with Aegon Assist for 15 February, its communications were not as good as they should have been, and that Mr D had had to chase for his policy payment. Aegon paid Mr D £300 compensation for its poor service.*

*But it didn’t consider that it was responsible for Mr D taking a withdrawal from his drawdown account, saying that it had acted on his instructions. Aegon said that in phone calls on 15 February and 26 February, Mr D had confirmed that his withdrawal request was from the drawdown account, and had provided the account number. It said the income request form that Mr D had completed confirmed the tax implications of such a withdrawal, and that this was also brought to Mr D’s attention when he first took TFC in 2022.*

*Unhappy with Aegon’s stance, Mr D brought a complaint to this service. He said that he is not a pensions expert, and did not fully understand the difference between crystallised and uncrystallised funds. Mr D said that he believed he’d made his intentions clear that he wanted to withdraw TFC, and was not told by Aegon that he’d incur tax or trigger the MPAA. It was only when he received Aegon’s email on 1 March about the payment that he became aware of the tax liability. Mr D said the payment had been taxed at his marginal rate and had resulted in the loss of his personal allowance.*

*Mr D referred to the Financial Conduct Authority’s (‘FCA’) Consumer Duty, and in particular the requirement that a business must avoid causing foreseeable harm to its customers. He said that Aegon had not made him aware that he’d be withdrawing taxable income, or the impact this would have on his future ability to fund his pension. He also said it made no sense for him to pay tax of around £35,000 when a TFC payment was available from his SIPP.*

*Mr D said that when he’d spoken to Aegon on 4 March, it had been suggested to him that he pay the amount he had received back into his SIPP and receive tax relief. He commented that the MPAA had been introduced to prevent recycling of pension monies in this way. Regarding Aegon’s email of 14 March stating it had removed the MPAA, Mr D questioned whether it had the authority to do this.*

*Our investigator did not uphold this complaint. She agreed that Mr D’s initial intention was to take TFC from his SIPP. However her view was that in the call Mr D had with Aegon on 15 February, he had confirmed that he wanted to withdraw money from the drawdown account, rather than TFC. The investigator also considered that the income request form Mr D had completed made it clear this was a payment subject to tax, and that it would trigger the MPAA limit. On the basis that Aegon had followed Mr D’s instructions, her view was that it should not be required to reverse the payment. She considered the £300 compensation payment made by Aegon for its level of service was reasonable.*

*Mr D disagreed with the investigator’s assessment. He reiterated his lack of knowledge of pension terminology and said this had led him to misunderstand whether TFC could be taken from a drawdown account, rather than only from the uncrystallised part of a SIPP. Mr D highlighted that he’d asked to withdraw £80,000, which was the full amount in the drawdown account. He repeated that it was not logical for him to take an income payment when TFC was available. Whilst accepting that Aegon does not give financial advice, Mr D said that it had a duty of care to make a customer fully aware of the implications of their*

instructions when taking pension benefits. In light of his request on 14 February to withdraw TFC, he suggested Aegon should have questioned him on 15 February about why he now wanted income instead.

Mr D said that neither the triggering of the MPAA nor the tax deduction on the income payment had been brought to his attention during his phone calls with Aegon. In terms of the income request form that he completed, Mr D accepted that this highlighted the implications of taking income for the first time, and he said his answers suggested he understood those implications. However he said that his completion of the form reflected his lack of pension knowledge, commenting that "the taxable element was something that I thought would be declared on the self assessment by me at the end of the fiscal year."

Mr D said that he had little doubt that the absence of a meeting with Aegon Assist contributed to him incurring tax on his pension withdrawal and triggering the MPAA. He commented that had these been clearly explained to him, and if he'd been given a statement before the withdrawal was completed showing how much tax was to be deducted, he would have identified there was an error, and then ensured he only took TFC. Mr D said that being given a pre-transaction statement would have ensured Aegon was making him fully informed.

Mr D said that whilst the income form did raise warnings about taking an income payment, "it may well be that they have been completed without a full appreciation of the restrictions they would trigger." He said that the fact his appointment with Aegon Assist did not go ahead on 15 February should have triggered a warning that in 24 hours he'd altered his requirement from wanting only TFC to requesting a large income withdrawal. This then should have led to him being told to speak to an adviser, and this would have ensured he was an informed client. He said the processing of his request had caused foreseeable harm.

In response our investigator commented that on the income request form Mr D completed, Aegon said he should seek financial advice or guidance before making any decisions about his pensions savings. She confirmed this case would be passed to an ombudsman for review.

Since being passed this case, I have asked Aegon for some further information about it. Aegon has confirmed that since Mr D took the net of tax payment of £46,564.64 from the drawdown account on 1 March 2024, he made a TFC withdrawal of just under £138,000 from the uncrystallised policy under the SIPP on 15 April 2024. This resulted in around £413,000 being moved as crystallised funds to the drawdown account.

In light of Aegon's email to Mr D on 14 March 2024 that stated it had removed the MPAA trigger for him, I asked on what basis it had been able to do this. In response Aegon said that it had removed the trigger in error, and that it would therefore be reapplying it. Aegon also confirmed that as a result of its error in removing the trigger, contributions paid into Mr D's policy had now exceeded the £10,000 MPAA limit for the tax year 2024/25.

Aegon wrote to Mr D and apologised for its error in removing the MPAA trigger. It confirmed this had now been reapplied. Aegon explained about the breach of the MPAA contribution limit in the 2024/25 tax year, and it said it would reimburse Mr D for the cost of any annual allowance charge made by HMRC for this tax year, subject to provision of evidence showing this had been charged. It said it had asked Mr D's employer not to submit further contributions for him in the 2024/25 tax year. Aegon also offered Mr D £250 compensation for the trouble and upset this error had caused.

Mr D contacted our investigator to say that Aegon's admission of error regarding the MPAA trigger further reflected his view that it had caused him foreseeable harm. He said Aegon

*had made a series of mistakes that had caused him financial loss, and again highlighted the impact the MPAA limit would have on his ability to fund his future pension provision. Mr D said this emphasised the need he had to be properly informed about his options when he requested a payment from his policy in February 2024, and to be told about the consequences of taking taxable income rather than the TFC which he'd requested multiple times when speaking to Aegon.*

### ***What I've provisionally 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.*

*In doing so I have taken into account relevant law and regulations, guidance and standards, including the FCA's Consumer Duty.*

*Aegon has commented that when Mr D withdrew TFC in 2022, it made him aware of the tax implications of taking funds from a drawdown account. At this time, it gave Mr D a document entitled "Your pension offer". This explained that, if a policyholder took a TFC payment, three times that amount would be moved into a drawdown account, with the rest of the pension funds being left in the uncrystallised SIPP. It said "(y)ou may be able to take further tax-free cash from the uncrystallised SIPP at a later date. Any withdrawals you take from the drawdown pension will be taxed at your marginal rate of tax." Later in this document, it was explained that taking income from the drawdown account would also trigger the MPAA.*

*I would agree with Aegon that the information it sent Mr D in 2022 made it clear that a payment taken from the drawdown account would be liable to tax, and would trigger the MPAA. However I'm mindful that when Mr D enquired about making a fund withdrawal in February 2024, this was around 18 months later. I have therefore considered what information Mr D was told by Aegon in 2024 about the potential implications of taking money out of his SIPP.*

*I note that when Mr D contacted Aegon in February 2024 about taking a further withdrawal he held over £500,000 in his uncrystallised policy account, and over £80,000 in his drawdown account. There was therefore a significant amount of TFC available in the uncrystallised account. I note Mr D has questioned why he would choose to take a taxable payment from his SIPP when he was able to withdraw TFC. In this regard, I have considered the interactions he had with Aegon about his withdrawal request at this time.*

*I have listened to recordings of the telephone calls Mr D had with Aegon in February 2024. When Mr D rang on 14 February, he confirmed that he had around £80,000 sitting in his policy's drawdown account, and that he wanted to withdraw this. In respect of these drawdown funds, he said: "I think it's part of the 25% tax-free lump sum". The Aegon representative asked if it was TFC that Mr D wanted to receive, and he confirmed that it was. The representative explained that this would require an appointment with Aegon Assist. Mr D responded that when he had such an appointment in 2022 he found the process quite long, and he wanted to avoid another hour long call with Aegon Assist. He said his requirement was to simply withdraw the drawdown account money.*

*The representative responded that Mr D had the option to take income from the drawdown account, but "the drawdown is always classed as income, so that will be taxed depending on your tax code, which will just be a withdrawal form." She said that if Mr D wanted TFC, he would need to speak to Aegon Assist. The representative said she could book in an appointment with Aegon Assist, or if Mr D wanted the drawdown funds she could send him a form for that. Mr D said he wanted to take "the most expeditious way", either being sent a form or having an appointment. The representative confirmed again that if Mr D was sent a*

form, he would be taxed on the income, but if he wanted the TFC it would need to be an appointment. Mr D agreed to the phone appointment, and the representative said she'd booked this for 15 February.

*It is clear that during this phone call, Mr D confirmed he was seeking TFC. I also consider his comments indicate a misunderstanding he had about what the funds held in the drawdown account represented. Mr D said that the drawdown funds represented TFC, moved into the drawdown account after he'd taken his earlier withdrawal in 2022. But this wasn't correct; in fact they represented crystallised funds moved to drawdown in 2022, meaning that if they were withdrawn, they were liable to income tax.*

*In my view, the representative did not directly address Mr D's misunderstanding, in the sense that she did not explicitly say that the drawdown money was not TFC. However, she did correctly tell Mr D that a withdrawal from the drawdown account would be taxed. And she also explained that Aegon's policy was to require customers requesting a TFC withdrawal to have an appointment with Aegon Assist. On balance, my view is that as a result of the call on 14 February, Aegon had made it clear that to take TFC required an appointment with Aegon Assist, whereas if a withdrawal was taken from the drawdown account through the completion of a form sent by Aegon, this would be liable to tax.*

*Mr D rang Aegon on 15 February because he'd not received the expected call from Aegon Assist. When asked if Mr D was looking to withdraw TFC, he repeated his misunderstanding that TFC was sitting in the drawdown account. The Aegon representative established that no appointment with Aegon Assist was booked on its systems. Mr D repeated his request that he wanted to take the remainder of the TFC on the policy.*

*The representative offered to book an appointment with Aegon Assist but said the earliest available was on 6 March. Mr D explained that he'd received confirmation that he had an appointment booked for 15 February, and he didn't want to have to wait nearly a month for the next available appointment. The representative said she believed there'd been miscommunication about the 15 February booking.*

*In terms of the money held in his policy, Mr D said that his funds had been split some time ago, with the 25% TFC sitting in the drawdown account. As explained above, that was incorrect - the money in the drawdown account was not TFC.*

*Mr D said that he only wanted to access the drawdown account, and he didn't understand why he'd need to wait a month to do that. The representative replied "just to clarify, you have an uncrystallised SIPP which has tax-free cash in it still, you also have a drawdown account, you're saying you're now looking to get access to the drawdown account and not take the 25% tax-free cash?". In my view, this accurately confirmed the position with Mr D's policy.*

*Mr D responded "no...if I've confused you, apologies". He confirmed he'd already taken a withdrawal some months ago, and said "the tax-free lump sum is sitting in a drawdown account to the tune of about eighty something thousand and I simply want to have access to that."*

*The representative asked whether, when Mr D said access to the drawdown account, he meant so that he could see it online, or meant that he wanted to take money out. Mr D confirmed that he wanted to take money out, and he said he was seeking to withdraw all the funds from the drawdown account. The representative said she could send flexi-access drawdown forms so that Mr D could request withdrawal of all the funds in the drawdown account, and Mr D agreed to this.*

The representative then said: "Just to clarify, you're looking to take the full amount of your drawdown, nothing to do with your tax-free cash on the other policy?" Mr D responded "errr...correct, so at the moment just to confirm I think it's about eighty something thousand that's sitting in the drawdown account...that's the amount I want to take out, the remainder that's sitting in the SIPP pension I don't want to touch." It was agreed that the representative would email Mr D with the flexi-access drawdown form.

I have thought carefully about the contents of this call, together with the call on 14 February. At outset, Mr D did explain to Aegon that he was looking to withdraw TFC. And during both the calls on 14 and 15 February, he showed a misunderstanding about what funds were held in the drawdown account, indicating this was TFC. However, in my view Aegon had made it clear to Mr D during the call on 14 February that if he wanted to take TFC, he would need to speak to Aegon Assist. On balance it therefore seems to me that Mr D had been made aware that to take TFC, he would not be able simply to complete a withdrawal form, without having an Aegon Assist appointment – and indeed this is what he'd had to do in 2022 when first taking TFC from his policy.

During the call on 15 February, I consider there was some confusion about what type of withdrawal Mr D wanted to take from the policy. But in proposing that she send a flexi-access drawdown form to Mr D, the representative did seek to clarify whether the withdrawal related to TFC. And Mr D's response was that he only wanted to take the drawdown funds.

The representative on the 15 February call did not highlight that a withdrawal from the drawdown account would be subject to tax, or that this would trigger the MPAA limit. However the representative on 14 February call did make it clear that a payment from the drawdown account would be taxable. Further to this, I have considered the content of the flexi-access drawdown form that Mr D completed on 15 February.

At the start of the form, Aegon recommended seeking financial advice or guidance before making any decisions about pension savings, to assist the policyholder to fully understand their options. Mr D ticked a 'yes' box in response to the question: "Have you received guidance from Pension Wise [a free government service] relating to this transaction in the last 12 months?"

In the income details section, he ticked a box requesting the full value of his drawdown fund as a one-off income payment. At the start of this section it stated: "You should consider the tax implications...when deciding on the level of income to be taken." It also stated: "Taking income for the first time from a flexi-access drawdown arrangement will trigger the money purchase annual allowance (MPAA) rules if you've not already triggered them."

In a compulsory section entitled "About the risks", it was explained that it was important to understand the main risks when withdrawing money from a pension pot. Question 4.2 asked: "Are you aware that you may pay tax on income taken from your pension fund and that this may be the higher rate of tax?" In response Mr D ticked the 'yes' box. The form then explained: "The amount you withdraw and any other income that you receive may result in you paying higher rate tax or even owing additional tax."

On the final page of the form, under where Mr D signed, there was a definition of the MPAA. It stated: "Where the MPAA applies to you the amount that can be paid by you or for you into money purchase arrangements (like this one) without a tax charge arising may be restricted to the MPAA". It continued that the MPAA would apply "if you take (or have already taken) certain types of pension benefits, including... income from a flexi-access drawdown plan." Aegon suggested speaking to a financial adviser for more information about the MPAA.

*In relation to completing this form, whilst acknowledging that it highlighted the risk of taking income for the first time, Mr D has said that he filled it in whilst having a lack of knowledge of pension terminology. In terms of the taxable element, he has commented that he thought this would be declared on his self assessment tax return at the end of the year. Mr D has also highlighted that he rang Aegon as soon as he received notification that the payment had been taxed. Whilst I acknowledge what Mr D has said in this regard, my view on balance is that the income request form was clear that payments resulting from its completion would be subject to tax, and would result in the MPAA being triggered.*

*Mr D has highlighted that he was not given confirmation of the tax that was to be deducted from the payment before the transaction was completed. He has said that if he had been, he would have been able to halt it, and then ensure he only received TFC. I appreciate why he has said this, but as I've explained, I consider the warnings on the income form made it clear that the payment was taxable. In addition, during the call on 14 February, Aegon's representative had also explained that an income payment from the drawdown account would be liable to tax.*

*Mr D has indicated that if he'd had an appointment with Aegon Assist, the tax deduction on the policy payment and triggering the MPAA is unlikely to have occurred. Aegon has accepted that it made an error with the phone appointment it booked for 15 February, and this was why it didn't take place. But I note that on 15 February, it did offer to book a new appointment. Mr D was clearly keen to move forward with the withdrawal, and was unhappy that the earliest available appointment was on 6 March. Although I can understand why Mr D wanted to progress matters, in my view the wait for the next Aegon Assist appointment was not an unreasonable one.*

*Overall, having carefully considered the evidence available that led Mr D to receive an income payment in March 2024 that had been subject to tax, and that triggered the MPAA limit, on balance my view is that Aegon did provide Mr D with sufficiently clear information about the transaction at this time. Through a combination of the phone calls that occurred and the form that he completed, I consider that Aegon adequately explained to Mr D what the effects of taking a withdrawal from the drawdown account would be.*

*After Mr D raised his complaint about what had happened with the withdrawal, Aegon sent him an email on 14 March 2024 saying that it had removed the MPAA trigger. Aegon has now confirmed that this was an error. I understand that it's now reapplied the trigger, limiting pension contributions into Mr D's policy to £10,000 a year. But in the absence of the MPAA limit being in place, it's said that contributions into Mr D's SIPP have exceeded this for the tax year 2024/25.*

*As I consider that the error in lifting the MPAA limit is connected to the circumstances that gave rise to Mr D's complaint, in my view it's reasonable to look at this issue as part of this complaint. Aegon has said that it will reimburse Mr D for the cost of any annual allowance charge that HMRC makes for the 2024/25 tax year, subject to Mr D forwarding evidence of this. It has also offered Mr D £250 compensation for the trouble and upset this has caused. This is in addition to the £300 compensation it offered Mr D in its original complaint response in May 2024.*

*The removal of the MPAA represented a clear error by Aegon. Mr D has commented that it's a further example of a mistake being made by the business. On the basis that HMRC will impose a charge on Mr D for exceeding the £10,000 contribution limit, I agree that Aegon should cover this, as it's a result of its mistake.*

*In terms of the general level of service provided by Aegon to Mr D, it accepted that it made an error by failing to properly schedule the proposed appointment on 15 February with*

*Aegon Assist. It also said that its communication during the withdrawal process was not as good as it should have been. I note that having submitted the income request form, Mr D had several conversations with Aegon relating to his email address, and to confirm other details required for the withdrawal. The timescales given to Mr D regarding when the payment was to be made also seem to have varied.*

*It is clear that failings in Aegon's service have caused Mr D some significant difficulties, both in relation to the events that occurred leading up to the payment of the drawdown funds, and in terms of the incorrect removal of the MPAA trigger. Taking into account awards made by this service on cases with similar circumstances, my view is that the total compensation offered by Aegon of £550 in respect of distress and inconvenience caused to Mr D is reasonable. I understand that the first offer of £300 has been paid to Mr D, but it's not clear whether the later offer of £250 has also been paid as yet.*

*I appreciate that my provisional findings will come as a disappointment to Mr D, and I acknowledge what he has said about the significance of paying income tax on the March 2024 payment, and the effect of the MPAA limit on his future pension funding. But having considered the weight of evidence provided, my current conclusion is that via its phone calls with him and the information it included on the income request form it asked him to complete, Aegon did adequately explain to Mr D about the impacts of withdrawing money from the drawdown account. As a consequence, I currently consider that Aegon should only be required to compensate Mr D for its poor level of service."*

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

Mr D did not respond to the provisional decision.

Aegon accepted my provisional decision, and confirmed that it had not as yet paid the additional £250 compensation that it had offered Mr D.

### **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, and taking into account the reply to my provisional decision, I do not consider that I have reason to alter the conclusions reached in that provisional decision.

### **My final decision**

My final decision is that I uphold this complaint in part.

In the event that Mr D incurs an annual allowance charge for exceeding the £10,000 MPAA contribution limit in the tax year 2024/25, Scottish Equitable Plc trading as Aegon should reimburse Mr D for this, subject to him providing proof of the charge.

Scottish Equitable Plc trading as Aegon has already paid Mr D £300 compensation.

I require Scottish Equitable Plc trading as Aegon to pay Mr D a further £250 compensation to reflect distress and inconvenience caused to him.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 5 June 2025.

John Swain  
**Ombudsman**