

complaint

Mr S is unhappy with how Scottish Equitable plc (Aegon) handled the transfer from his Capped Drawdown (CD) plan to a Flexi Drawdown (FD) plan.

background

Mr S took a regular income from his CD plan with Aegon. Following pension freedoms legislation Mr S wanted to take a lump sum withdrawal of £25,000. Aegon said Mr S needed to set up a FD plan.

The CD plan had three Income Access Accounts (IAAs). Mr S completed an application on 17 June 2015 confirming he wanted *all* drawdown wrappers to be converted. As three wrappers were to be converted, Aegon required three new wrappers to be set up in the FD plan.

On 16 July 2015, £69,792.07 was sent to Aegon, representing the value of the three CD wrappers. Aegon's platform team received this on 23 July 2015. But by that time only one wrapper had been set up on the FD plan by Mr S's adviser.

On 23 July 2015 Aegon asked the adviser to set up two more wrappers. But by this time he was no longer employed by the firm he had been working for. And at the time he didn't have the appropriate FCA authorisation.

Aegon suggested that the adviser's former employer set up the two new wrappers. But the adviser told Aegon on 4 August 2015 that his previous employer wouldn't help. The adviser reiterated to Aegon that Mr S needed his money. Aegon said Mr S could appoint another authorised adviser to act on his behalf.

On 6 August 2015 Aegon explained that, without an alternative adviser to conclude the transaction, its only option would be to return the funds. The same day the adviser confirmed he was now authorised with his new employers and asked for login details to be sent to him.

Aegon sent the funds back on 7 August 2015. The money was reinstated under the CD plan.

On 12 August 2015 the adviser sent Aegon a letter of authority. But he sent it to a personal email rather than the team mailbox. It wasn't actioned by Aegon until 19 August 2015.

The adviser's new employer registered online on 21 August 2015. The adviser set up two new wrappers under his new firm on 21 August 2015. A total of £66,749.43 was transferred using prices as at 4 September 2015. Mr S's lump sum was paid on 23 September 2015.

Mr S's adviser complained on Mr S's behalf about the overall time taken to complete the transfer from CD to FD. Aegon had paid Mr S £100 – acknowledging there'd been a delay because the adviser's email had been sent to a personal email and not the mailbox.

One of our adjudicators investigated this complaint. She didn't uphold it. In brief she said:

- The initial amount transferred had to be sent back because the correct number of wrappers hadn't been set up. By the time the right number had been set up, the fund value had fallen. That wasn't Aegon's fault.

- Aegon didn't agree that the initial transfer amount would be held as cash until the correct number of wrappers had been set up. Aegon isn't responsible for the correct number of wrappers not being set up.
- Aegon explained that when it receives a transfer payment it usually holds onto it for five business days to allow for the new plan to be requested or set up by the adviser. Here Aegon held onto the funds for ten working days before returning them.
- The adviser told Aegon on 6 August that he was authorised. But his new firm needed to complete details on-line to allow for re-registration. This wasn't done until 21 August 2015 – after the funds had been sent back.
- Aegon didn't act unreasonably in returning the funds without the adviser's or Mr S's instruction. It acted in accordance with its procedures – which aren't unfair. Holding onto the funds as cash, rather than reinvesting, meant there was potential for lost investment growth.
- The adviser wasn't told he needed to set up three wrappers. But this still didn't mean Aegon acted unreasonably because:
 - Aegon doesn't know how many wrappers need to be set up until the system is set to '*funds sent*'. At that point Aegon can see the details of each tranche.
 - Aegon's procedure is to set up one wrapper unless told otherwise by the adviser.
 - The same day Aegon received the funds it asked for two more wrappers to be set up. But the adviser wasn't authorised.
- Aegon didn't act unreasonably by not accepting one tranche on the FD plan and sending two back until more wrappers had been set up – when the payment comes across from the ceding plan it's as one figure. So Aegon couldn't split it and assign only a portion to one wrapper. And transfers from a packaged plan to Aegon's platform are treated as external transfers so partial sums can't be sent back.

The adviser and Mr S didn't agree. In summary the adviser said:

- The funds under the original wrapper were moved to cash prior to setting up the three wrappers. One wrapper was set up as Aegon instructed. It was only after the adviser left his previous firm that he found out two more needed setting up.
- Once the funds were moved into cash pending the wrapper transfer they should've remained in cash until the transfer was complete – instead Aegon arbitrarily moved the funds back to Mr S's original wrappers.
- Aegon received no instruction from the adviser or Mr S to reinvest the cash back into the original holdings – this exposed Mr S to the fall in fund value.
- Aegon insist on adviser involvement in liquidating funds but arbitrarily act without it when funds are returned.
- Aegon should've moved the funds from one of the existing wrappers to the new wrapper pending setting up the two smaller wrappers.
- The wrapper that was set up was for the bulk of Mr S's fund.
- Aegon's procedures are in breach of their fundamental duty to treat customers fairly.
- Aegon shouldn't have reinvested the funds from cash without his or Mr S's specific instruction – not being advised that Aegon had done this gave no alternative to move back to cash pending transfer to FD.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

I understand Mr S's and his adviser's frustration that things didn't go as planned with the transfer to the FD plan. And Mr S has lost about £3,000. That's the difference between the £69,792.07 first transferred and the £66,749.43 paid later – after the money had been reinvested and disinvested again.

During that time the fund value fell. Aegon isn't responsible for that. But Aegon would be responsible for any loss Mr S's sustained if the original transfer wasn't processed as it should have been.

I've set out in some detail above what happened. The process isn't entirely straightforward. And I think the timing was unfortunate. Mr S's adviser was moving firms. This complicated matters and led to some difficulties and delay.

Essentially the problem was that, as the ceding CD plan had three wrappers, the same number had to be set up for the new FD plan.

The adviser knew by 23 July 2015 that two more wrappers needed to be set up. For various reasons that wasn't done until 21 August 2015. By then Aegon had returned the funds. Aegon did that on 7 August 2015 – the day after the adviser had told Aegon he was authorised again.

Aegon had held the funds for longer than it would otherwise have done – presumably in the hope that what it needed would be done so the transfer could go ahead. And it wasn't until 12 August 2015 that the adviser sent Aegon a letter of authority. Even then his new employer's details were required which weren't completed until 21 August 2015 which was when the adviser set up the two further wrappers.

I don't think Aegon did anything wrong by not processing the transfer and sending the funds back when it did. I don't agree with the argument about dealing with the matter as a partial transfer and retaining some of the funds and allocating those to the wrapper which had been set up. I can see that approach could cause problems and uncertainty.

The funds were reinvested as at the original claim date (16 July 2015) so were subject to the usual investment movements (any gains or losses) from then until the second attempt to transfer was made. Fund values had fallen by then which was reflected in the lower value transferred to the FD.

The adviser says that, once the funds had been disinvested first time round, they shouldn't have been reinvested and Aegon didn't have any authority to do that. But what Aegon was in effect doing was returning the customer to the position they'd have been in anyway. And on the basis that their funds had remained invested throughout.

Unfortunately in Mr S's case, that didn't work in his favour. But, in other cases, if funds are held in cash, a consumer could lose out on investment growth if fund values rise during the period. So I don't think what Aegon did was wrong.

Overall I didn't see that Aegon was responsible because the later transfer value actually paid was less.

I did look more closely at one aspect of the matter. It seemed there'd been a delay in picking up the adviser's email of 12 August 2015 – sent to a team member's email rather than a centralised inbox. Aegon had paid Mr S £100 compensation.

I thought that was fair enough for any distress and inconvenience Mr S had suffered. But, if there'd been a week's delay in completing the transfer second time around, there may have been a financial loss – if disinvestment as at 28 August 2015 (not 4 September 2015) would have given a higher fund value.

When we asked Aegon about that it told us, if Mr S's CD plan had been disinvested on 28 August 2016, the fund value would have been £67,187.59 (that's £438.16 more than the £66,749.43 based on the prices as at 4 September 2015).

But Aegon didn't accept that it was responsible for that fall in value. Aegon explained that the team member had forwarded the email to be added as an item of work on the same day as received – 12 August 2015. Aegon's service standard is current day, plus five working days. So the target date for completion of the work was 19 August 2016. And that was when Aegon emailed the adviser to confirm the change of agency.

Given what Aegon's now said about exactly what happened and the timing I don't think Aegon is responsible for the difference in the fund values.

my final decision

I don't uphold the complaint and so I'm not making any award.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 23 December 2016.

Lesley Stead
ombudsman