

Ombudsman's Determination

Applicant	Mrs L
Scheme	Aegon Pension Plan (the Scheme)
Respondent	Aegon

Outcome

1. I do not uphold Mrs L's complaint and no further action is required by Aegon.
2. My reasons for reaching this decision are explained in more detail below.

Complaint summary

3. Mrs L's complaint is about the payment of death benefits under the pension plan of her late brother, Mr N, who passed away in 2013.
4. She does not agree with Aegon's decision to pay the death benefits to Mrs Y as a dependant of Mr N. She says that Mr N was living with Mrs Y as a lodger and that Mrs Y, as his landlady, was not dependent on her brother.

Background information, including submissions from the parties

5. Mrs L complained to Aegon that the lump sum death benefits should have been paid to her and her two other brothers. Aegon did not uphold her complaint. In summary, Aegon said that it considered all of the possible beneficiaries and reached a decision in accordance with the rules of the Scheme (**the Rules**).
6. According to the Rules, the scheme administrator may at its discretion decide to pay the lump sum death benefits to all or any one or more of the following persons:
 - Any person or persons (including trustees) who has or have been named or identified to the scheme administrator by the member in writing prior to the member's death for the purposes of receiving a lump sum death benefit;
 - The surviving spouse or civil partner, children and remoter issue of the member;
 - The member's dependants;

- The individuals entitled to any interest in the member's estate whether under the member's will or on the member's intestacy or who would be entitled to an interest in such estate if the member had died intestate and the estate had been of sufficient amount;
- The member's legal personal representatives.

7. The term "dependant" is defined in the Rules and it includes:

"A person who was not married to, or a civil partner of, the member at the date of the member's death and is not a child of the member, but who, in the opinion of the scheme administrator, at the date of the member's death was financially dependent on the member or had a financial relationship with the member which was one of mutual dependence or was dependent on the member because of physical or mental impairment."

8. Aegon decided that payment should be made to Mrs Y on the basis that she was financially dependent on Mr N, whereas none of the other potential beneficiaries were. Aegon's response to the complaint included the following points:

- In 2007, when Mr N took out his personal pension plan with Aegon, he nominated five beneficiaries to receive the lump sum death benefits in the event of his death. His nominated beneficiaries were Mrs Y's children and grandchildren, not Mrs L or his other siblings.
- It considered all of the evidence properly. It was clear from the evidence that Mrs Y was financially dependent upon Mr N. The evidence did not show that the other claimants, including his siblings or those named on the death benefit nomination form, were financially dependent on him or that they should take precedence over Mrs Y.

9. Mrs L did not agree with Aegon's response and has referred her complaint to us for an independent review.

Adjudicator's Opinion

10. Mrs L's complaint was considered by one of our Adjudicators who concluded that no further action was required by Aegon. The Adjudicator's findings are summarised briefly below:

- It is at the discretion of Aegon to decide, in accordance with the Rules, to whom the death benefits should be paid. Aegon considered all of the potential beneficiaries listed in the Rules, including the information submitted by Mrs L, before deciding to pay the death benefits to Mrs Y as the member's dependant.
- It is for Aegon to decide how much weight to attach to any piece of evidence submitted by the potential beneficiaries. It is not within our remit to step into

the role of the scheme administrator and say what Aegon should have decided. We can only seek to overturn a decision if it was so irrational that no reasonable decision-maker could have reached the same decision.

- When the pension plan was taken out by Mr N, the beneficiaries named on the death benefit nomination form were Mrs Y's children and grandchildren, and not Mrs L. Aegon also considered council tax bills that were addressed to both Mr N and Mrs Y for the four year period (2008-2012) leading up to his death. Therefore, Aegon had obtained evidence of Mrs Y's interdependency on Mr N.
- Aegon's decision to pay the death benefits to Mrs Y, on the basis that she was a dependant of Mr N, was not perverse or outside the range of reasonable outcomes that could have been reached.

11. Aegon agreed with the Adjudicator's Opinion and made no further comments.
12. Mrs L did not accept the Adjudicator's Opinion and the complaint was passed to me to consider. Mrs L provided her comments in the letters dated 20 February 2017 and 6 March 2017, but these do not change the outcome. I agree with the Adjudicator's Opinion, summarised above, and I will therefore only respond to the key points made by Mrs L for completeness.
13. Mrs L has provided a letter from the Kingston Upon Thames Council Tax Office dated 27 May 2016. This letter says that:

“People listed as occupants would not be named on the bill and not have any liability for Council Tax...I am able to confirm that [Mr N] was registered as an occupant at [Mrs Y's] address until 5th September 2013 only.”
14. Mrs L argues that this letter shows Mr N was not responsible for paying Council Tax at the address and therefore Mrs Y, as his landlady, was not financially dependent on him.

Ombudsman's decision

15. Mrs L acknowledges in her correspondence that Mr N was living with Mrs Y's family on a long term basis, but she maintains that this was merely as a lodger and Mrs Y was not financially dependent on him. I have noted the contents of the letter from the Kingston Upon Thames Council Tax Office. I accept that the liability for council tax would ordinarily be with the owner of the property. However, the council tax bills were addressed to both Mr N and Mrs Y. A reasonable interpretation of this could be that there was a financial arrangement between Mr N and Mrs Y, regarding the payment of council tax, which represents a departure from the usual position set out in the letter relied on by Mrs L. I do not consider it unreasonable for Aegon to infer from this that there was a financial interdependence between Mr N and Mrs Y.

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16. Aegon asked the correct questions necessary to decide who the potential beneficiaries were. They considered all the evidence available to them and their decision to pay the death benefits to Mrs Y, on the basis that she was a dependant of Mr N, was not perverse or outside the range of reasonable outcomes that could have been reached.
17. Therefore, I do not uphold Mrs L's complaint.

Karen Johnston

Deputy Pensions Ombudsman
15 March 2017