

Ombudsman's Determination

Applicant	Mr D
Scheme	Aegon Pension Plan (the Plan)
Respondents	Aegon

Outcome

1. I do not uphold Mr D'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. Mr D has complained that Aegon did not process the payment for his pension contributions for the tax year of 2015/16.

Background information, including submissions from the parties

4. On 4 April 2016, Aegon received a cheque from Mr D dated 1 April 2016, for his yearly contributions into the Plan, which it attempted to process on 8 April 2016. Aegon said it was unable to process the cheque because it looked as though it had been tampered with.
5. Mr D raised a complaint with Aegon, on the grounds that his Plan had suffered a loss because Aegon did not action the cheque.
6. Aegon emailed Mr D on 18 May 2016; it said the cheque was received on 4 April 2016, and that its process was to action post within seven to nine working days. It tried to action the cheque on 8 April 2016, which was within its set timescales. Aegon also said that the cheque could not have been processed in any event as it had a manual error which had not been initialled.
7. Mr D said he took the cheque to the bank and it confirmed that it was likely his cheque would have been accepted for clearance. Mr D said that he believed Aegon not processing the cheque was unreasonable.

Adjudicator's Opinion

8. Mr D'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:
 - Mr D sent a cheque to Aegon dated 1 April 2016, it is not disputed that this was received by Aegon on 4 April 2016. For the contributions to be accepted in the 2015/16 tax year the cheque would have needed to clear by 5 April 2016. The cheque could clearly not have been presented to the bank and cleared in time to meet this deadline.
 - Aegon tried to process the cheque on 8 April 2016. Its standard process is to deal with post within seven to nine days which is not unreasonable.
 - Aegon said it would not process the cheque because it looked as though it had been tampered with. It was reasonable for Aegon to have security measures in place. But even had the cheque been processed that would not change the outcome because it still would have missed the deadline to be processed in time for the 2015/16 tax year.
 - Mr D has not suffered an actual loss because although the Plan will not be enhanced by the contributions, these funds remained in his bank account for him to invest as he wished.
9. Mr D did not accept the Adjudicator's Opinion and the complaint was passed to me to consider. Mr D provided his further comments which 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 Mr D for completeness.
10. Aegon accepted the Adjudicator's opinion.

Ombudsman's decision

11. Mr D has said that in previous years cheques that had been received by 4 April would have been accepted as a contribution for the tax year ending on 5 April. He has said that cheque clearance would not have been an issue if the cheque had been accepted on 4 April 2016. This may indeed be the case if there had not been an issue with the cheque but that was not so as the cheque had a correction that had not been initialled.
12. Aegon has said it will not accept a cheque if it has an error that has not been initialled. It is entirely reasonable for Aegon to use its discretion to decide whether a cheque should be accepted or not. Mr D has supplied a copy of the cheque which shows an error which has not been initialled. Although, Mr D has had assurance from his bank that the cheque would have cleared, it is not for the bank or Mr D to decide what Aegon's process should be when accepting cheques.

13. Furthermore, it was Mr D's decision to send the cheque containing an error as he believed it would have been accepted. Mr D could have re-written the cheque, or initialled the error to be on the safe side, but he made the choice to send the cheque regardless. Aegon cannot be held responsible for the fact that he did not consider the error would have caused a problem.
14. Mr D also made the decision to send the contribution cheque very close to the deadline of when payment would be accepted, Aegon cannot be held accountable for his choice to send the cheque so close to the cut-off date.
15. Finally, Mr D disputes that he has not suffered an actual loss because the funds remained in his bank, instead of becoming an asset of the Plan. It may well be the case that Mr D has not been able to benefit from the tax relief he would have received had his contributions been accepted. However, as I do not find Aegon responsible that the contributions were not invested in the 2015/16 tax year it cannot be held liable for the loss of tax relief.
16. Therefore, I do not uphold Mr D's complaint.

Anthony Arter

Pensions Ombudsman
23 November 2016