

Ombudsman's Determination

Applicant	Mr R
Scheme	Aegon Flexible Pension Plan (the Aegon FPP)
Respondents	Aegon

Outcome

1. I do not uphold Mr R'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 R has complained that Aegon has refused to allow a transfer from the Credit Agricole Legacy Pension Scheme (**the Scheme**) to his Aegon FPP without financial advice being obtained even though the transfer value is below £30,000. Mr R wants Aegon to be directed to accept the transfer from the Scheme.

Background information, including submissions from the parties

4. Mr R says that he previously held a number of small pension pots which he wished to consolidate in the Aegon FPP. These were all accepted by Aegon except for the transfer from the Scheme which was a defined benefit scheme. Aegon said that it was a blanket decision taken at a business level to require all defined benefit transfers to have financial advice.
5. Mr R also says that if he is required to obtain financial advice it would reduce the transfer amount significantly and the law does allow transfers to be made without advice where the transfer value is below £30,000.
6. Aegon say that as a company it does not accept transfers from defined benefit schemes unless advice has been given by an authorised financial adviser. Defined benefit schemes offer valuable benefits and currently the guidance from the Financial Conduct Authority (**FCA**) is that it is rarely in a customer's best interests to give that up. Aegon would also mention that it is not obliged to accept the transfer.

Adjudicator's Opinion

7. Mr R'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 below:-
- The Pension Schemes Act 2015 introduced a new requirement from 5 April 2015, for members considering a transfer from a defined benefit scheme to obtain independent financial advice where the cash equivalent transfer value is £30,000 or more. The requirement for the member to obtain independent financial advice where the transfer value is less than £30,000 does not apply. However, regulatory guidance from the Pensions Regulator does say that the member must be reminded about the information on transfers available from the Pensions Regulator, the Pensions Advisory Service and the FCA to assist them.
 - It would appear that Aegon, cognisant of the Pensions Schemes Act 2015, and guidance from the Pensions Regulator, has taken a commercial decision to require all members wishing to transfer from defined benefit schemes to take independent financial advice.
 - The Pensions Ombudsman will not normally interfere in the commercial decisions taken by companies as they are entitled to run their businesses as they see fit. Furthermore, although Mr R does have a statutory right to a transfer there is no obligation on any provider to accept a transfer and it can decline a transfer if its own internal requirements are not met. Therefore, although the Adjudicator understood Mr R's frustration at Aegon's decision, it has not acted outside of the transfer regulations and cannot be said to have acted incorrectly. The Pensions Ombudsman cannot therefore direct Aegon to accept the transfer.
8. Mr R did not accept the Adjudicator's Opinion and the complaint was passed to me to consider. Mr R provided his further comments which do not change the outcome. I agree with the Adjudicator's Opinion and I will therefore only respond to the key points made by Mr R for completeness.
9. Mr R says:-
- Aegon's response fails to take into account any of his arguments on the business rationale for not accepting transfers for less than £30,000. Aegon's "belief" that all transferees should take advice is irrelevant.
 - The Adjudicator's Opinion, indicated that the requirement to take advice where the transfer value is less than £30,000 does not apply but that a scheme member must be "reminded" of information on transfers. Being reminded does not mean being compelled to follow such information in the circumstances of this case.

- With this in mind, Aegon cannot make what purports to be a commercial decision and companies are not free to run their businesses as they see fit that appears to run contrary to the intention of Parliament.
- The Opinion does not address his argument that Aegon's decision contravenes Outcome 6 of the Treating Customers Fairly framework which seeks to prevent the imposition of unreasonable post-sales barriers.
- The Opinion does not address the various other issues in Aegon's communications particularly in regard to the provision of incorrect advice.

Ombudsman's decision

10. The role of the Pensions Ombudsman is to investigate complaints and to provide a means of redress where it can be shown that a respondent has acted contrary to the rules of a pension scheme or where there has been an act of maladministration. In this instance Mr R is complaining that Aegon have refused to accept a transfer from the Scheme without the provision of advice even though the transfer amount is less than £30,000.
11. I accept that there is no legal requirement for individuals to seek independent financial advice where the transfer amount is less than £30,000. Aegon has taken a commercial decision to require all individuals wishing to make a transfer from defined benefit schemes to obtain independent financial advice. Although Mr R may disagree with that decision I do not find that Aegon have breached any regulatory guidance or legal requirement by imposing such a condition. Therefore, I cannot say that Aegon have acted contrary to the rules of a pension scheme or that there has been an act of maladministration which would allow me to make redress. I cannot direct Aegon to accept Mr R's transfer simply because he wants this, any company is free to set the terms on which it will accept business.
12. Mr R has said that Aegon's decision contravenes Outcome 6 of the Treating Customers Fairly framework which seeks to prevent the imposition of unreasonable post-sales barriers. The Treating Customers Fairly framework forms part of the Financial Conduct Authority's (**FCA**) guidance that all firms must be able to show consistently that fair treatment of customers is at the heart of their business model.
13. Outcome 6 says "Consumers do not face unreasonable post-sale barriers imposed by firms to change product, switch provider, submit a claim or make a complaint".
14. I do not find that Aegon has contravened the FCA's guidance or Outcome 6 as all members transferring from defined benefit schemes are being treated in a consistent manner. Furthermore, Aegon are imposing a condition prior to acceptance of the transfer so it cannot be deemed to be a post-sale event.
15. Finally, Mr R says the Adjudicator's Opinion did not address the various other issues in Aegon's communications particularly with regard to the provision of incorrect

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advice. I can see that Aegon has provided some incorrect information that the decision might be reconsidered and wrongly stated the corporate body to which he should refer any complaint. At various times this has been stated as the FCA and FSCS. Although this is unfortunate I do not find that it has had any material effect on the outcome as the complaint did eventually reach this office.

16. Therefore, I do not uphold Mr R's complaint.

Anthony Arter

Pensions Ombudsman
2 October 2018