DRN-4393525

The complaint

Mr B complains that Scottish Equitable Plc, trading as Aegon, deducted tax from the withdrawal he asked them to make from his pension. He says that instead of drawing all of the funds that he wanted as tax-free cash, Aegon treated the instruction as an Uncrystallised Funds Pension Lump Sum (UFPLS) withdrawal, meaning that part of the payment was subject to income tax.

In addition, Mr B says that's now triggered the Money Purchase Annual Allowance (MPAA), restricting what he can pay into his pension in the future. He says that he now wants Aegon to reverse the transaction because their information was unclear.

What happened

In August 2022, Mr B decided that he wanted to take the tax-free cash that he was entitled to from his Aegon pension. As Aegon have an online portal, Mr B signed into his pension account and completed what he thought were the relevant instructions to withdraw his available 25% tax-free cash allowance.

Shortly afterwards, Mr B discovered that, instead of receiving £12,000 tax-free, Aegon had debited income tax from part of the payment and sent those monies to HMRC. He also discovered that as a consequence of the withdrawal, the MPAA had been triggered, resulting in a cap being introduced on the amount that he could then pay into his pension in the future.

Unhappy, Mr B decided to formally complain to Aegon. In summary, he said that he didn't ever intend to withdraw his tax-free cash via the UFPLS route, and it was always his wish to have the full payment made tax-free. He went on to ask Aegon to reverse the transaction.

After reviewing Mr B's complaint, Aegon concluded that they were satisfied that they'd done nothing wrong. They also said, in summary, that when Mr B completed the relevant screens on their website, he selected the chosen withdrawal method, and therefore they felt it was up to him to make sure that the route he selected was the right one for him. They went on to say that they weren't prepared to reverse the transaction.

Mr B was unhappy with Aegon's response, so he referred his complaint to this service. In summary, he said that it was always his intention to take just the tax-free cash and not invoke a tax charge. He said, had Aegon made it clearer to him that there would be tax to pay, he wouldn't have proceeded in the manner in which he did. He went on to explain that now the MPAA has been invoked, it'll significantly impact his future retirement planning because he'll be limited to investing just £4,000 p.a., which he says, will mean he'll now lose out because he was planning on using his bonuses from work to top up his pension over the next 10 years.

The complaint was then considered by one of our Investigators. He concluded that Aegon had treated Mr B fairly and from what he'd seen, Aegon had given him the right information before he decided to proceed with the withdrawal request.

Mr B, however, explained that he disagreed with our Investigator's findings. Whilst being given the opportunity to provide further comment, Mr B didn't respond, so because he didn't agree with our Investigator's view, the case has come to me to review that outcome.

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.

Mr B says that he'd never heard of the MPAA or an UFPLS withdrawal before, so when he saw the impact of these on his tax-free cash request, he contacted Aegon to try and have things reversed. Aegon, however, have said that they placed Mr B in an informed position beforehand and as such, don't believe that they've done anything wrong – and I agree. So, whilst I appreciate this'll likely come as a disappointment to Mr B, I'm not upholding his complaint. I'll explain why below.

I think it's important for me to explain here that Aegon aren't Mr B's financial adviser, so they aren't responsible for giving him any financial advice. Their role is to simply hold and administer Mr B's funds in the manner that he's set out to them. The decision on how to extract funds from the pension rests solely with Mr B. And, it's Aegon's responsibility to ensure that they follow any instructions that he gives to them in a timely and efficient manner. I also think it's important to add here that, whilst Mr B does have a financial adviser, because they're tied to a single product provider, they weren't able to provide any advice to him on the Aegon plan or help facilitate the withdrawal. That meant Mr B had to make his own decisions or pay for an independent financial adviser to help him.

Whilst Mr B didn't have a financial adviser to guide him through the withdrawal process, I don't believe that he was going into this blindly. Aegon have provided screenshots of their online portal that Mr B completed to arrive at the UFPLS withdrawal that was made. Having looked at those closely, I think that enough information was in there to have enabled him to make an informed decision about the path that was right for him.

When Mr B logged into Aegon's portal to arrange the withdrawal, he was presented with five options: '*leave it all for now*, *take it as cash, set up flexible access drawdown, set up a fixed income for life'* and finally *'blend multiple choices'*. Mr B selected '*take it as cash'*. After each option, there was then a drop-down menu that provided a wider choice and more information. I can see why Mr B selected the '*take it as cash'* option, but he should've selected the '*set up flexible access drawdown'* option which would've then provided information on the tax-free cash route that he wanted. But, by selecting '*take it as cash'*, the portal then explained that he could take some or all of the pension as a taxable lump sum. I think the reference at that point to the fact that some of the withdrawal was taxable, should've alerted Mr B to the fact that this option would result in some of his monies being liable to income tax.

After selecting the '*take it as cash'* and ultimately the UFPLS option, Mr B was provided with a number of warnings by Aegon that he was then asked to sign to confirm that he had read and understood. I've highlighted the two that I believe are relevant to his complaint:

- *I instruct you to pay the whole or part of my fund as requested under my Account, less income tax, to me as an Uncrystallised Funds Pension Lump Sum (UFPLS). I also understand that depending on any other taxable income I am receiving I might be liable to pay further tax or may have to reclaim the tax.*

- *I am aware that receiving a UFPLS will mean that the Money Purchase Annual Allowance (MPAA) will apply to me, if not already, and that if money purchase pension savings are made by me, or on my behalf, which exceed the MPAA will be subject to an annual allowance tax charge.*

Mr B signed the declaration electronically at 21:53 on 23 August 2022 and I think it's clear from this statement that he signed, that the monies Aegon were planning to pay to him would be subject to income tax and wouldn't be paid tax-free.

In making his withdrawal choice, Aegon also provided Mr B with the regulator's retirement risk warning questionnaire which he completed. Importantly, the questionnaire prompted him to check that he understood the tax position of his withdrawal request and highlighted that, by accessing his pension, the MPAA would apply if he wished to continue saving into his pension. It went on to explain that he'd be limited to saving no more than £4,000 each year into his pension by taking the UFPLS withdrawal.

So, it seems to me that Mr B was placed in an informed position about the impact of his choices before he made the decision to proceed. Whilst I appreciate that pension terminology can be confusing to some, the consumer still has a responsibility to ensure that they read the information they're signing and if they're under any doubt about what they're entering into, they should seek clarification. In addition to the brief summaries that appeared on Aegon's website, there was also a link to a short video that provided an explanation of each option that he could've viewed, had he wished to do so, if he were in any doubt. Given that Mr B wished to extract his monies tax-free, I think the references to tax being debited from the payment should've prompted him to seek clarification from Aegon before proceeding.

I also say that because, if Mr B was in any doubt about his selected route or how he wanted to achieve his goal, he could've telephoned or emailed Aegon for help. Whilst they can't provide advice, they can provide factual information, but they've confirmed that Mr B only reached out to them after the event, at which point, it was too late to guide him down his preferred path. This is particularly relevant because Mr B has explained that, whilst he did see all of the risk warnings above, he didn't really understand what they meant. So, had he contacted Aegon for more information, I don't doubt that they would've been happy to explain the terms to Mr B and ensure that his wishes were undertaken in the manner he originally intended. So, for the reasons I've set out above, I'm not going to be instructing Aegon to take any further action.

My final decision

I don't believe Scottish Equitable Plc, trading as Aegon, have done anything wrong and as such, I'm not upholding Mr B's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 24 November 2023.

Simon Fox
Ombudsman