

The complaint

Mr R complains that he received inadequate and delayed responses from Aegon to questions he had about how his personal pension plan worked. This came at a critical time when he was considering whether to transfer away. He considers that Aegon's actions either caused him to lose valuable guarantees when he transferred the policy, or alternatively delayed the transfer beyond a date where the terminal bonus was reduced.

What happened

I will provide a summary of the key events here. I intentionally haven't mentioned every specific communication, but focused on the main issues on which the outcome of this complaint turns.

Mr R held a personal pension with Aegon, into which it appears he had transferred benefits that came under his former employer's occupational pension scheme in 1992. A personal pension plan came under different tax rules to an occupational scheme, so Aegon issued a new policy which is subject to its own terms and conditions. These include the option of investment in a with-profits fund which guarantees that the price of each unit will be £1.03 if Mr R retains those units to his pension date. For much of the period since, Mr R had been working outside the UK.

On 7 April 2022 Mr R wrote to Aegon in response to a statement it had sent for his pension. Aegon received this letter on 19 April. He asked 15 questions, several of which were prompted by terms mentioned in the statement – such as about the guarantees and charges referred to. He asked why the values of the funds he held had fallen over the past year; whether the value of his with-profits units was the £12,408 he expected it to be (based on each unit being worth £1.03 at his 'pension date'); whether the terminal bonus on this element had fallen; and how much it would cost to transfer out. Mr R added that another stockbroking platform he used had a 'special offer' for transfers which was due to expire at the end of that month, and he welcomed Aegon's "*early (ie immediate)*" response.

Aegon responded to Mr R's request on 27 April in a standard format (similar to how it would respond, for example, to enquiries from an independent financial adviser). It said Aegon didn't respond to individual questionnaires, but provided answers to the most commonly answered questions. I note that the response confirmed, amongst other things:

- Mr R's plan's pension date was in 2031
- There was no guaranteed minimum fund or annuity on the pension plan itself, but there were guarantees attached to his investment in the with-profits fund.
- The charges taken over the last year, broken down into an annual management charge and a paid up fee (there were no other charges).
- An attached illustration showed that the fund value was the same as the transfer value (i.e. no penalties for transfer). The total value was about £10,306. A projection was given to retirement age.
- The with-profits units were guaranteed to be worth £1.03 each at his pension date (i.e. in 2031). Their value before this date reflected an element of guaranteed growth built into the fund, which was on average 5.5%pa. Further information on how this

fund worked was available via Aegon's website address or on request.

- No further annual bonuses were currently being paid on the with-profits element, but a terminal bonus (which was not guaranteed) was currently payable of about £1,723.

The letter added: *"The plan has investments in a With-Profits fund with potentially valuable investment guarantees applicable at the planholder's pension date. These guarantees will be lost on early encashment, transfer or switching out of the With-Profits funds before the pension date. Visit www.aegon.co.uk/wpguarantees to find out about the guarantees on the With-Profits funds."*

Mr R didn't consider this answered all of his questions. Some had not been answered at all: for instance the precise type of policy he had, whether the charges were part of the unit price and what the reasons were for recent falls in value. He wrote to Aegon again on 6 May. Further questions he added concerned whether the charges were levied in advance, whether these would be pro-rated if he transferred out and what 'waiver of contribution' (which Aegon had said he didn't have on his policy) meant. Mr R was also upset as he had already told Aegon that he wouldn't be satisfied with references to its website.

Aegon has admitted it neglected to action this further request in error, and as a result Mr R chased it again in another letter which it received on 25 May. Because Mr R said in this letter that he would hold Aegon responsible if he missed out on a £200 incentive to move his pension by the end of June, Aegon acknowledged this as an expression of dissatisfaction about its administration of his policy – in regulatory terms, a complaint. But Mr R immediately responded asking it not to treat his request as a complaint.

Aegon then further admits that it, again, neglected to action Mr R's outstanding questions in error, despite him chasing again on 15 June. Mr R says that as a result, on 29 June he decided to transfer his pension away from Aegon. This resulted in the new provider requesting the transfer proceeds from Aegon electronically on 7 July, and the exit value of his plan being calculated on 11 July.

On 4 July Mr R had already asked for his dissatisfaction to be treated as a complaint. In a follow-up email of 18 July, Mr R was still querying a number of unresolved issues concerning the guarantees that applied to his plan and what it would be worth at his pension date. He said he needed to know this in order to decide whether to continue with or halt his proposed transfer. On 26 July Mr R added that the value of his funds had fallen by about £650 (or 6%) by the point of transfer, and as he no longer had access to his on-line servicing (because of the transfer) he asked a number of questions about the funds' recent performance.

Whilst Aegon was looking into Mr R's complaint, its administration department belatedly acknowledged his outstanding questions. It told Mr R on 1 August that as the transfer had now completed, it wouldn't be able to complete a further 'request'. Mr R wished to add to his complaint that the Aegon transfer had taken 27 days to arrive, more than twice as long as a transfer he was making to the same platform from a different pension provider.

Mr R referred the complaint to our service on 11 August, because he was aware that he had 30 days to exercise his cancellation rights, three weeks of which were still outstanding. However we wouldn't have been able to get involved at that time because a business is entitled to have eight weeks (essentially the rest of August) to respond to a complaint. Aegon provided its response to the complaint on 14 September. It agreed that it hadn't provided the level of service it should have done in responding to Mr R's questions and offered him £300 in compensation, in addition to answering some outstanding points. This included giving him a complete summary of all transactions on his plan.

Aegon explained that there was a regular 'paid up' charge (following cessation of premiums), as well as an annual management charge taken into account in the unit price itself. It also said that his with-profits units had an in-built guaranteed growth of 5.5%pa over the term of the plan; his units in the mixed fund had dropped due to market volatility; and the terminal bonus rate for the with profits units was revised downwards at the start of April 2022 due to negative investment performance. (Aegon also added that if Mr R had instead had a 'new generation with-profits' policy, which had been another of his questions, no terminal bonus would have applied. It also explained what waiver of premium meant.)

Mr R responded that he was still expecting Aegon to make good the £650 fall in value of his plan between 3 April and 11 July (when the surrender amount was valued). He also wanted Aegon to make good a £5,800 shortfall in what he was quoted to receive from his with-profits units at his retirement date, due to the guaranteed unit price of £1.03.

Aegon addressed the further issues in a second response to the complaint on 12 October 2022. This confirmed that it had made the £300 payment to the bank account Mr R had nominated – and was now willing to send a further payment of £200 to him (which it has now paid), following a review of the amounts our service typically recommends for distress and inconvenience. But it didn't agree it was responsible for the market conditions that led to the value of his fund falling, and considered that it had sufficiently explained how the with-profits guarantees worked.

Mr R referred his complaint to us, saying that his calculation of the present day value of the loss of guarantees, the drop in value of his funds, plus compensation for time spent pursuing the complaint less the £500 Aegon has already paid him, comes to another £1,900.

Mr R's complaint was then considered by our investigator. He asked Aegon to explain its process for encashing policies and it responded: *"We use a process called R+2 for all transfer or settlement requests that we receive. This means we set the Claim Date (final value amount) as 2 working days from receipt of all the required documentation that allows us to complete the settlement. As the request was received on 7 July 2022 the Claim Date was set 2 working days later on 11 July 2022. This is our standard company policy for all settlements."*

The investigator concluded that Aegon didn't need to pay more than the £500 compensation it had already given Mr R to put things right. In summary, he said:

- Mr R had left more than enough time for Aegon to answer his queries, beginning his request more than two months before his new provider's offer ran out.
- However Aegon's response to his queries wasn't just contained in its 27 April 2022 letter. Several references were made to its website where more information was provided, including about the way the with-profits fund operated.
- In his letters Mr R had demonstrated a good understanding of the features of his policy during the transfer process. The majority of his correspondence between April and October 2022 requested confirmation of that understanding, rather than provision of any new information.
- In particular, by referring to the guarantees under his policy (the key one being that each unit in the with-profits fund was worth £1.03 at pension date), he was aware that he would lose these by transferring out.
- It wasn't reasonable to knowingly proceed with the transfer when the information available to Mr R suggested an early exit from the fund would harm him financially.
- If Aegon had provided explicit confirmation of Mr R's understanding of how the policy operated, he couldn't see how Mr R would have made a different decision.
- Previous transfer values issued to Mr R were never guaranteed. The values of his

investment in the mixed fund and the bonuses payable on the with-profits fund were subject to market conditions.

The investigator didn't, at the time, discuss some further information that Aegon had included in its submissions to this service about the 'smoothing' process in its with-profits fund and some changes it had made to that process in 2015. Smoothing is a system of annual and final (or terminal) bonuses which with-profits providers use to smooth out the peaks and troughs of performance in the fund's underlying investments (and in this case the built-in increase rate to the unit price is effectively a form of annual bonus). Aegon had said:

"for pre v7 WPE [with profit endowment] plans (such as this [Mr R's]) we reduced the bid price series a number of years ago with the result that the TB [terminal bonus] element was increased and became a balancing item depending not just date of investment but also the originally selected future pension date. Therefore, rather than one unique rate of TB per investment month we now have a series of rates per investment month, one for each month into the future to your originally selected retirement date.

On Fund Factsheets we show TB for post v7 WPE plans where we didn't reduce the unit price and where a single rate continues to apply. For most investment months this is 0%.

*However, for pre v7 plans – where we reduced the unit prices (by 2% for every outstanding year to maturity) – TB may be payable to top up the reduced bid price to the affordable payout [sic] level. For example, assume unreduced bid value [value of units at the prevailing price] is £150 and the affordable pay-out is £140. TB would be set to 0% (as affordable pay-out below bid value); pay-out would therefore be £150. However, for an otherwise identical pre-v7 plan of 10 years outstanding duration, the bid value would be c.£120 (20% lower reflecting 2% * 10 years) The bid value is now below the £140 affordable pay-out and so we'd add £20 as TB. Pay-out would be £140.*

*...
The WPE unit price is guaranteed at originally selected retirement date with prices increasing at around 5.5% per annum before that date (post v7 plans). For pre v7 plans, to get back to the guaranteed unit price at originally selected retirement date, the unit bid price now increases by around 7.5% per annum to unwind the reduction over time."*

Mr R didn't agree with the investigator. Briefly, Mr R remains dissatisfied that details which the investigator believed were ascertainable by him *before* he transferred, were not so readily available to Aegon that it still took Aegon many months *after* he transferred to provide. He says he would not have knowingly have given away over £2,000, or persist in answering questions unless the details he had about his policy were genuinely in conflict. And he would always have needed written confirmation of the correct information from Aegon, not information he had to glean from its website (which he found difficult to find).

Mr R returned to one aspect which he found particularly confusing, which is that Aegon's built-in increase to the with-profits fund's unit price of about 5.5%pa would clearly *not* take it to £1.03 per unit by his pension date in under a decade. He said that would require 88% growth. He also emphasized that he'd have no way of knowing that Aegon would revise its terminal bonus amount a few days after the transfer request.

The complaint was then passed to me for a decision. I wrote to Mr R on 14 June and 7 September 2023 to address some of the outstanding questions following the investigator's view. In summary, my comments were:

- The process Aegon had used to value Mr R's policy for encashment based on the date of receipt of the instruction was consistent with how all providers deal with these requests to ensure no consumer is treated more or less favourably than another when there is a backlog of instructions. (It may vary from provider to provider whether they use the unit price one or two days after the request is received, as this will reflect how quickly units could be sold.)

- Aegon sent the funds to the new scheme within nine working days of when it received the online 'Origo' request. If the standard "BACS" bank clearing process was used, it may have taken a couple of days longer to reach his new provider.
- The Transfers and Re-registration Industry Group (TRIG) has promulgated good industry practice, aiming to achieve transfers within ten working days on as many cash transfers as possible. But this is an aspirational standard rather than a regulatory rule. The view this service would take is that exceeding the desired timescale by a short time isn't significant enough to warrant compensation. And the fact that another provider may have effected a transfer more quickly isn't something I'm bound to take into account.
- I provided Aegon's explanation about the change to the way it managed its with-profits fund in 2015. Due to poorer investment returns, the amount it could afford to pay as the consumer's fair share of the fund on claims earlier than pension date had routinely become lower than the units held, multiplied by the unit price. The unit price had originally been set to go up at 5.5% each year from the point each contribution was paid up to the pension date, meaning it would reach a price of £1.03 at pension date (which was then guaranteed). That was the main part of the smoothing policy.
- Aegon changed its approach in 2015, using the discretion its actuaries have, to 're-price' the value of the units. The unit price was reset to be about 7.5% (rather than 5.5%) lower than £1.03, on a compound basis, for each year prior to pension date. This made it more likely that payouts on early exit from the fund didn't exceed Mr R's fair share of the assets. It caused a discontinuity (a drop) in the unit price at the point in 2015 it was applied. But Aegon immediately added as much extra, in the way of further terminal bonus, as it took off as a result of re-pricing the units.
- The change gave Aegon more freedom to reduce that terminal bonus in future if it needed to, to cater for adverse market conditions. This was because the with-profit endowment fund didn't have a built-in mechanism called a market value reduction that could otherwise simply have been triggered. However, none of this affected the price of £1.03 for each unit at pension date which was the guarantee in the fund.
- I sent Mr R a copy of the template letter Aegon used to communicate these changes to policyholders in November 2014 (only one letter was sent – it was included twice in the letter we sent Mr R in error).
- Aegon's view is that the information given in annual statements, which still refer to a 5.5%pa increase, is consistent with how the fund is operating. That's because it refers to the *average* annual increase in unit price from the commencement of the plan (or when a contribution is paid) until pension date. And that hasn't changed, even though the unit price has dropped in 2015 and now goes up at a faster rate.

In my letter of 14 June 2023 I also gave an indication of the outcome I would likely reach on the merits of the complaint. I explained that I would have to consider why Mr R was more, rather than less, inclined to transfer his policy before Aegon had clarified the discrepancy he'd noticed with the 5.5%pa unit price increase. Mr R's own enquiries showed he'd already recognised that if his unit price was still £1.03 at age 65, he would get an attractive, inbuilt investment return of over 7%pa at no risk. But he chose to transfer regardless. I said I'd have to consider whether the other aspects Mr R was dissatisfied about played a greater part – including the fall in terminal bonus. As the with-profits fund is invested in bonds which dropped in value during 2022, I noted this fall in terminal bonus would always have happened, irrespective of Mr R's level of understanding of how the with-profits fund worked.

On 26 June and 20 September 2023 respectively, I received from Mr R paragraph by paragraph examinations of my letters and their enclosures. I won't be summarising these here, as there is considerable overlap with his original complaint which I've summarised

above. I've already clarified some of the background summarised above in light of Mr R's comments and will refer to the points he has made, where relevant, when I address them in my reasoning.

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.

I've previously referred Mr R to Dispute Resolution (DISP) rule 3.5.8R and directed that he restrict his response to only the key issues. Mr R has asked this service numerous questions. If I haven't commented on those in this decision it is because I don't consider them to be relevant to the outcome of the complaint, or they are requests that are better directed by Mr R to Aegon itself. My role isn't to collate Mr R's questions about his policy and answer each one (or co-ordinate responses from Aegon to them), if I don't consider them to be central to the complaint.

Mr R has also been clear that he isn't complaining about the pricing changes to the with-profits fund in 2015, but about Aegon's tardiness in responding to his questions in 2022. As I indicated in my recent letter, the management decisions Aegon takes in running the fund, including those in 2015, were carried out under the supervision of the industry regulator, the FCA – and in the context that (as Aegon explains on its fund factsheets), the unit price is not guaranteed on encashment before the pension date. In the rest of this decision, I've taken into account the way the fund was now operating, following the changes in 2015.

In short, Mr R is arguing that he should be compensated for the loss of guarantees on the basis that the transfer would never have happened. But in the event that I'm not persuaded by this, that he should be compensated because the transfer should have happened before Aegon reduced its terminal bonus in July 2022. I'll consider each of these claims separately, as well as whether Mr R received a fair and reasonable claim value, and what is appropriate compensation for the distress and inconvenience caused.

Loss of guarantees

Firstly, I've looked first at whether Aegon is responsible for Mr R's decision to transfer and miss out on the guarantees payable at retirement date. I think a key part of the confusion here was in the interpretation of Aegon's comment on Mr R's annual statement (and repeated elsewhere) that there was a 5.5%pa growth rate on average built into the unit price.

The unit price that applied when each contribution was paid in had been determined from a scale that was 5.5% less than £1.03 (compounded) for each year before pension date that the contribution was paid. The changes in 2015 didn't alter either this start or end price – the start price had already been used to determine how many units Mr R held (albeit that they reduced gradually due to the paid up charge), and the latter was guaranteed. But the unit prices at years in between were only one component of calculating any value for exiting the fund early. Aegon had expected it had set the unit price at a low enough level, with the built-in increases, to only ever need adjusting upwards (by the addition of terminal bonus).

However, prevailing investment returns at the time this 5.5% scale was originally set were a lot higher than they were by 2015. Aegon anticipated that simply relying on the final element of an added terminal bonus, even if that became zero, wasn't sufficient for it to continue with the smoothing process. The change Aegon applied was to reset the unit value at a lower level, but now have a 7.5% rather than 5.5%pa increase rate to get back to £1.03 at the pension date; the only point the price was actually guaranteed. And at the same time, to distribute the 'estate' in the with-profits fund (that is, the amount by which the total value of

the investments exceeds the smoothed return) as additional terminal bonus.

I understand Mr R's concern about the wording on the annual statement. But if Aegon had announced here that his policy benefited from a compound investment return of 7.5%pa (plus any further annual bonuses added in the past, and any terminal bonus), that wouldn't be correct either – as the 7.5%pa increase to the unit price *hadn't* applied from the outset. It was more accurate (albeit in summary form) to say that over the whole term of the policy the unit price increase rate amounted to 5.5%pa on average.

Mr R has made comparisons with the clearer policy summaries for other financial products, such as home emergency cover. I understand the point being made, but I can't agree the comparison is warranted. The with-profits fund was incepted decades ago, when insurance policies weren't as clear as they are today either. A home emergency policy is renewed each year and the terms can be revised. Aegon has a limited ability to vary how the with-profits fund works, or discuss in specific detail each decision it makes, because of the considerable discretion the regulator allows it to have in order to ensure that the built-in guarantee of a £1.03 unit price at pension date, which has been in place since the outset, can be met.

Mr R doesn't agree that he was ever told he had a "pre-v7" policy or that Aegon was changing the way it managed the with-profits funds on such policies. He doesn't think that he received (or at least cannot now locate) Aegon's November 2014 letter. Whilst Aegon wouldn't necessarily have known that Mr R didn't have these details, I think it ought to have appreciated in any event that *no* policyholder was going to have a particularly good recollection, by 2022, of the changes it had made to how the fund operated some seven years ago. So I think a fuller recap of the position would have been beneficial here.

Crucially though, in my view, Mr R recognised that something was lacking in the explanation. He arrived at something very similar to the 7.5%pa unit price increase rate by looking at how quickly his unit price would need to increase over the remaining term to reach £1.03. That was the reason behind many of the questions he asked Aegon. Although he didn't receive a response he was entirely satisfied with, which Aegon accepts responsibility for, Aegon did confirm that the £1.03 unit price guarantee applied at his pension date in 2031. But Mr R transferred his policy out regardless.

Mr R considers I am speculating as to his reasons for acting in the way he did at the time. He also doesn't agree that by giving his 'understanding' to Aegon of how his policy operated, that meant he truly understood it. He says he was left with no choice but to transfer because Aegon wouldn't respond to him. At the time of the transfer he *"did not know what benefit(s), if any, were attached to the Aegon Pension Policy"*, and he proceeded on the basis that Aegon might well have responded saying there were no benefits at all. He wouldn't knowingly have given away over £2,000, and he would always have needed written confirmation of the correct information from Aegon. The £200 incentive payment (which in respect of the Aegon part of the transfer was only £75, but fell to zero as the amount transferred was less than £10,000) was just the *"icing on the cake"*.

I've considered carefully everything Mr R has said, but I don't think this changes the central issue I've highlighted. I don't consider it's reasonable or logical to assume that there are no guarantees on the policy at all, just because there is a query over whether the unit price is increasing at 5.5% or 7.5%. By far the more likely outcome was that Aegon would confirm – as it had already stated on the statement Mr R was questioning – that he was indeed guaranteed a unit price of £1.03 at pension date.

By failing to respond promptly to Mr R's query, Aegon wasn't underwriting his decision to surrender his investment – in such a way that he would still benefit from a unit price guarantee of £1.03 at retirement despite no longer being an Aegon customer. That was a

feature of the policy which was stated to apply in Aegon's literature, then confirmed by Aegon, and which Mr R knowingly gave up in his decision to transfer, costing him (by his calculations) over £2,000.

In my view the reasonable course of action if Mr R thought this guarantee was valuable enough to potentially lead him to make a different decision about transferring, was to defer any decision to transfer until he was satisfied with its response to the information he needed. I realise Mr R will say that he had no idea how long it might take Aegon to respond, but he was not totally without recourse. He had the same remedy as he has in fact used: to raise a complaint which, if necessary, he could bring to this service.

Should the transfer have happened sooner?

I appreciate how frustrating it would have been for Mr R to read the somewhat simplified description on his annual statement, as I fully understand why he became puzzled at how the 5.5% unit price increase could give him units worth £1.03 at retirement. As I've noted above, Aegon could have anticipated this by providing a better explanation as part of its annual statement.

However, I'm not persuaded there is evidence of a delay in Aegon responding to Mr R's first letter dated 7 April 2022. As I've noted above, Aegon has a record of receiving this on 19 April. I can't know precisely why the letter may have been delayed in transit, and I can't rule out that at least some of that delay was whilst the letter was finding its way to the correct department within Aegon. The FCA's rules do not prescribe specific timescales for insurers to respond to questions, but they are required to treat policyholders fairly. I think it would be reasonable to allow Aegon 10 working days to respond to these types of questions about a legacy pension policy. And as Mr R had sent his request by letter, I think he would reasonably have expected the possibility of some postal delay.

In my view, Aegon's reply to this letter on 27 April addressed the bulk of his questions. The letter was sufficient, for instance, to confirm to Mr R that the unit price guarantee of £1.03 *did* apply to his plan. To put it another way, if Aegon had turned around many years later and said such a guarantee did not apply, Mr R now had it in writing that it did.

Aegon also provided a link to information about its with-profits funds that it published on its website. I don't consider this was unreasonable – as in recognition of the complexity of these funds to consumers, the regulator requires it to provide standardised information known as a Principles and Practices of Financial Management (PPFM) document, and to update this regularly. I can see how that is best done through a website link that can be refreshed¹.

The PPFM contains the information the FCA considers investors should know about the fund. It expands on the basic description of the bonus mechanisms in the policy terms and conditions, and includes ongoing comments about the impact of the markets on how the fund is being managed. I consider it was reasonable for Aegon to direct Mr R to that information in the first instance rather than divert resource into answering questions on a bespoke basis, or providing copies of the same information (which is extensive) in print. I'm not persuaded Mr R was disadvantaged by this, as he's shown in his complaint that he's able to access the internet even if his preference is not to do so – in fact some of his contact with Aegon was via e-mail.

Mr R recognised that Aegon hadn't answered some of his other questions and was of course entitled to follow those up in his letter of 6 May. However he added some more points in the

¹ <https://www.aegon.co.uk/customer/support/questions/investments/with-profits/governance> (the web address Mr R was previously given by Aegon now redirects to this area of the website)

process, and due to the lengthier nature of the questions this was far from being a routine enquiry. I expect that someone at a more senior level in Aegon would be needed to pick up the questions. Aegon has admitted that it then misplaced Mr R's letter – but if it hadn't, I don't think it would have been in a position to reply much sooner than Mr R chased again.

The level of Mr R's distrust in Aegon, which is evident through the correspondence, was such that I'm not in a position to safely conclude that if Aegon had responded in a reasonable manner to the 6 May letter, he would have considered matters resolved there and then. In saying this I'm mindful that what I would consider a fair and proportionate response to the level of detail Mr R had requested is, on balance, unlikely to have satisfied him. In particular, he wasn't content with the answers Aegon referred him to its website for.

With profits funds have fallen out of favour because of their complexity and particularly in a case like this where a financial adviser is not involved, suspicion and distrust can develop – and that's not something Aegon could necessarily resolve in a single reply. I'm also drawn to the fact that some of Mr R's concerns were about the charges Aegon was levying – charges that are best kept down by directing policyholders to information that is already provided centrally (such as on a website).

What seems to have been driving Mr R's thought process was that, from what he could see, the value of the plan was decreasing, and the charges were increasing. The value had been increasing through £8,000, then £9,000 and into the upper £10,000s between 2014 and April 2021. Then it did drop overall by about 5.5% to April 2022 and a similar amount again when it was transferred out. So the increasing charges were proportional to the fund value, which was rising. The statements of charges Mr R referred to (which were backward-looking, over the past year) hadn't yet reflected the recent fall in the policy value up to April 2022.

Timing an exit from a with-profits fund is not a straightforward exercise. I'm not surprised that Aegon suggested in some of its literature that Mr R should consider getting independent advice, because to treat all of its policyholders fairly Aegon was not in a position to warn Mr R that terminal bonuses were going to be revised downwards again, and precisely when. (Actuaries would reasonably keep that information confidential from customer service staff.)

The PPFM document I mentioned above ensures that all investors can have access to the same information on which they may then make a decision. The full PPFM can make for hard reading, but Aegon also produces a customer-friendly version. In the lead up to deciding whether to leave the fund – and particularly if he didn't want to seek financial advice – I think it would have been useful for Mr R to consult this document. It explains that terminal bonus revisions are made on a quarterly basis, and Mr R had already shown through his questions to Aegon that he knew the last change (a reduction) had happened around April.

Mr R was also looking to take advantage of an incentive for transferring his pension to the stockbroking platform by the end of June – but as he's said himself, that was relatively small in relation to fluctuations he'd already seen in the terminal bonus. When he gave his instruction to the stockbroking platform to request the transfer on 29 June, I think Mr R would reasonably have known that the value of his with-profits investment was likely to change from the last quote – potentially upwards or downwards. And the smaller amount he held in the 'Mixed' fund wasn't smoothed at all, so was fully exposed to the stock markets.

Aegon hadn't replied to as many of the queries Mr R had raised (and might then have gone on to raise) as it should, or as quickly as it should. But despite this, I've concluded that the value he ultimately realised from the policy was primarily the product of the timing of his own decision in the full knowledge that it could go up or down. And as I've noted above, it was a decision that actually relinquished the guaranteed unit price of £1.03 at pension date (which Aegon had already confirmed *did* apply).

Therefore, I consider Aegon's responsibility to compensate Mr R is limited to the distress and inconvenience caused by its delay in responding to his queries. I'm not sufficiently persuaded there is a direct causal link between Aegon's actions and the ultimate timing or rationale of Mr R's decision to leave the fund.

Did Aegon treat Mr R fairly and reasonably in calculating the surrender value?

Aegon's actuaries' decisions regarding how much to vary the terminal bonus by on a quarterly basis obviously had an impact on the value realised. Increasing interest rates in 2022 had an inverse effect on the value of fixed interest investments, which the with-profits endowment fund was 100% invested in. It is also not uncommon to find the value of shares in the Mixed fund rising when fixed interest assets fall, and vice versa – as they react to markets differently. So I'm not surprised that the actuaries reduced the terminal bonus again on 2 July 2022. (However to answer one of Mr R's questions, the terminal bonus on this fund cannot be negative: that would amount to a market value reduction, which Aegon says it doesn't apply on this type of fund.)

In its later annual report to with-profit investors, Aegon explains that in the year to 31 December 2022 the with-profit endowment fund returned -14.6%. And that has had an impact on the rate at which it is distributing the remaining with-profits estate over the rest of policy terms. Being mindful of more challenging market conditions, it reduced this distribution rate from 6% to 3% effective from July 2022 onwards.

Ultimately, setting the level of terminal bonus was a decision for Aegon to make having regard for the competing interests of all policyholders: if it paid out more than the underlying asset share to a departing policyholder that wouldn't be fair to those remaining, and vice versa. Aegon is ultimately accountable to the FCA for its management actions in a with-profits fund and it explains those actions to policyholders through the documents (such as the PPFM) which it's required to publish on a regular basis.

The ombudsman service aims to resolve cases informally, and doesn't ask the regulator to comment on every complaint it receives about management actions in with-profits funds. One of the reasons is that due to the confidential way in which the FCA operates, neither we nor Mr R would receive feedback on what the FCA may (or may not) be doing in response to his concerns. But also it's because the FCA has in any event already been supervising Aegon's actions on an ongoing basis, because of the type of fund this is.

Mr R has referred to a particularly well-publicised case (Equitable Life) where there were widespread concerns about the manipulation of terminal bonus, but I haven't found any similarity here. Variations to the terminal bonus were within the discretion Aegon had in operating the fund, and the movement wasn't unexpected or excessive given the circumstances at the time. Mr R has said he considers the poor performance to be a 'myth', but it's consistent with the assets held (principally government bonds), which are generally more stable than shares but can move downwards in particularly adverse market conditions.

A lot of Mr R's points go into alleged mismanagement of the fund by Aegon, and the alleged inability of the FCA to supervise that management. Mr R is free to raise his own concerns with the regulator if he wishes to do so, but I can't reasonably see a basis here on which the regulator would be seeking to unpick the amount Mr R (and therefore anybody else leaving the fund) realised in that quarter during 2022.

Turning now to the overall value realised from the policy, that is a combination of the with-profits element (11999.66 units at a price of £0.55828 = £6,699.17, plus terminal bonus of £1,112.72) and Mixed element (53.92 units at a price of £35.2276 = £1,899.47), totalling £9,711.36. The paid up charges incurred up to the date of surrender had reduced the final

number of units, with the Mixed fund having a daily published unit price. I haven't found anything to suggest they were incorrectly calculated.

Providers will typically check with policyholders before making a transfer, if the value has dropped by more than around 10% from the last quote. I think this strikes a reasonable balance between delaying potentially all transfers (in downward market movements), and allowing those who were most adversely affected to reconsider. The change in Mr R's transfer value was within that limit but as he noted, he could have tried to exercise his cancellation rights. Even if he had previously decided to transfer, Mr R was entitled to reconsider whether the now lower amount transferred wasn't enough to compensate for the guaranteed unit price he'd get in 2031. That was a decision only he could make and I don't think, with the information he had at the time, Aegon prevented him making that decision.

Mr R refers to his other pension provider transferring using 'faster payments'. Although the standard of good industry practice for an end-to-end transfer in 10 working days does include bank clearing, there is no specific requirement of the banking service to be used. There is already an acceptance that any transfer will involve some time out of the market, and it is for providers to take the clearing time into account when acting to make transfers promptly. I've also said this is an aspirational standard to be achieved on average, which won't always happen in each case. I note that Mr R's stockbroking platform warned him that cash transfers typically take within 2-3 weeks. I'm not persuaded that his transfer arrived sufficiently outside reasonable expectations to warrant compensation in this case.

Compensation for distress and inconvenience

Aegon has told this service that it took too long to answer Mr R's points, and the customer service was nowhere near the level it should have been. I agree its delay in responding to Mr R's questions aggravated matters for him and caused significant distress, but it has already paid him £500. That's consistent with the awards the ombudsman service typically makes where a firm's actions have caused considerable upset. I would likely not have arrived at a markedly different award had Aegon not already done this. Whilst I appreciate that this will be disappointing, I'm not going to make any further award here.

My final decision

I do not uphold Mr R's complaint or make any award. Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 1 November 2023. (I've made allowance for Mr R being away in this deadline.)

Gideon Moore
Ombudsman