

The complaint

Mr B complains that ReAssure Limited ('ReAssure') refused to switch his investments to a fund with a lower management fee. He wants ReAssure to make the switch.

Mr B made this complaint on behalf of a trust for which he is a trustee. For simplicity I've referred to the complainant simply as 'Mr B'.

What happened

In 1999 and 2002 Mr B took out two whole-of-life assurance policies with Legal & General Assurance Society ('L&G'). The policies operated as investment bonds which were invested in unit-linked investment funds. And the policies were placed under trust.

The terms and conditions said Mr B could invest in any of various investment funds which were '*part of [L&G's] Life and Annuity Fund*'. Mr B could ask to switch investment funds and there was no charge for that. But L&G reserved the right to introduce a charge.

About management charges, the terms and conditions said:

'On the first Valuation Date in each calendar month [L&G] will deduct a management charge of 1/12th of 1% of the value of each Investment Fund. This percentage may be varied at the discretion of [L&G]. Prior notice will be given should a change to this charge be made.'

In September 2020 a large number of policies from L&G – including Mr B's policies – were transferred from L&G to ReAssure. This followed a High Court hearing in which the Court approved a proposal by L&G to transfer part of its business to ReAssure under Part VII of the Financial Services & Markets Act 2000.

Mr B has said his complaint is not about the transfer itself. Although he did object to the transfer and made representations to that effect to the High Court, he is now complaining about ReAssure refusing to switch the investments in his policies to a particular investment fund which has lower fees.

Mr B said that when he took out the policies he thought the 1% management fee he was paying was reasonable because the funds he was invested in were actively managed. But he said that after the transfer of his business from L&G to ReAssure he wasn't satisfied that the funds were actively managed and so he didn't think the same fee was justified. He said that '*after prolonged negotiations with ReAssure the investments were switched into passive trackers*'. The fund Mr B's policies were now invested in was the UK and global equity tracker (universal) life accumulator series 01 fund. It had a management fee of 0.65%.

Mr B said he still wasn't happy with the fees he was charged. But he said he was locked into ReAssure because if he withdrew the money and invested it elsewhere he would've had to set up a new trust and wait seven years for it to become exempt from inheritance tax. Given the age and health of himself and his wife Mr B didn't consider that a viable option.

In October 2021 Mr B asked ReAssure to switch his investments into a different fund called the Legal and General global 100 index trust 1 Class Distribution. This was a fund Mr B had invested in through his own self-managed portfolio. For that investment Mr B said he was charged a management fee of 0.14%.

ReAssure told Mr B the fund he wanted wasn't available. It provided a list of funds that were available for Mr B's policies to invest in.

Mr B and ReAssure corresponded a number of times in relation to the funds available for Mr B's policies to invest in. In summary ReAssure said the fund he wanted wasn't available for the policies he held with ReAssure because it was provided by L&G to 'internal' L&G customers only and that meant to customers of L&G only. Mr B said this wasn't a satisfactory response and said he should be able to invest his policies in the fund he had requested.

Mr B referred his complaint to this service. He said ReAssure hadn't given him a satisfactory reason for refusing to switch his investments to the fund he wanted. And he wanted ReAssure to make the switch.

One of our Investigators looked into Mr B's complaint. In summary the Investigator said Mr B couldn't transfer to the fund he wanted because he wasn't a customer of L&G and ReAssure hadn't done anything wrong to cause this situation.

Mr B didn't agree with the Investigator's view. He said ReAssure's reason for not switching his investments as requested was that Mr B wasn't a customer of L&G, but he was a customer of L&G. He said the High Court approval for the transfer of business from L&G to ReAssure provided that L&G would remain as the manager of the funds. And Mr B said his contract with L&G still existed.

Because no agreement could be reached, the complaint was passed to me to review afresh and make a decision.

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.

Having done so, I'm not upholding the complaint. I'll explain why.

The purpose of this decision is to set out my findings on what's fair and reasonable, and explain my reasons for reaching those findings, not to offer a point-by-point response to every submission made by the parties to the complaint. And so, while I've considered all the submissions by both parties, I've focussed here on the points I believe to be key to my decision on what's fair and reasonable in the circumstances.

Firstly, I understand Mr B is not complaining here about the transfer itself of his policies from L&G to ReAssure, although I note he did object to the transfer. But I think it's relevant to note that the transfer was done in accordance with Part VII of the Financial Services and Markets Act 2000, with the approval of the High Court. The conditions of the transfer were approved by the Court, and I have no power to alter the judgement of a court.

Mr B is unhappy that ReAssure hasn't allowed him to switch the investments in his policies to the particular L&G fund of his choice. I can understand why Mr B would prefer his policies to be invested in the fund he has requested. But I can't say ReAssure has been unfair or unreasonable in refusing to switch his investment to that fund.

ReAssure said the fund isn't available to Mr B for investment within the policies he holds with ReAssure. ReAssure has been consistent in its position on this point. So I'm satisfied that this is its policy position and it's not treating Mr B differently from other customers who hold the same product.

Mr B has questioned the reason for the restriction that is preventing him investing in the fund he wants. It's not uncommon nor unreasonable for a provider of investment funds to have certain share classes which are available to certain classes of customer only. And the terms and conditions I've seen for Mr B's policies indicate that the policies allow Mr B to choose from a limited range of investment funds. Following the court-sanctioned transfer of Mr B's policy to ReAssure, it's not clear whether it was L&G's decision or ReAssure's decision not to offer the particular fund Mr B wants to invest in. But, either way, the decision to offer certain funds (and not to offer certain funds) is within the scope of the commercial judgement of a business. So, if it were ReAssure's decision not to offer the L&G fund to holders of the policies that Mr B holds, that would be a legitimate exercise of ReAssure's commercial judgment.

Mr B has said he's a customer of L&G and that his contract for his investment policies remains with L&G. But I don't think that is quite correct. The purpose of a part VII transfer is to move contracts to a new provider. The part VII transfer which moved a portion of L&G's business to ReAssure had the effect of legally transferring Mr B's contract with L&G to ReAssure. So Mr B's contract for his policies is with ReAssure. In that sense, for the purpose of the policies, he's a customer of ReAssure, not L&G.

Mr B has mentioned that he has, separately, invested in the L&G fund in which he wants ReAssure to invest his policies. But an investment in the L&G fund via a different platform doesn't make Mr B a customer of L&G for the purposes for the policies that L&G transferred to ReAssure. As I've said, for the purposes of those policies, Mr B's contract is with ReAssure and Mr B is a customer of ReAssure.

Mr B has also said L&G still manages investment funds that are available to holders of the policy he holds with ReAssure. Irrespective of this, Mr B's policies are still provided by ReAssure. And the terms of the ReAssure policy will dictate which funds policyholders may invest in.

I recognise the importance of Mr B's policies to him and his family. And I understand his frustration at having his policies transferred to a new provider against his will. I also understand why Mr B has said moving his policies or investments elsewhere is not feasible for him. But, despite all of this, I can't uphold Mr B's complaint. Having legally received the transfer of Mr B's policies from L&G with the approval of the High Court, ReAssure has provided a range of investment options to Mr B – and I can't say ReAssure is obligated to provide the particular fund that Mr B has requested.

My final decision

For the reasons I've set out above, my final decision is that I'm not upholding this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B on behalf of the trustees of the trust to accept or reject my decision before 27 February 2024.

Lucinda Puls
Ombudsman