DRN-4596075

The complaint

Mr H complains about Scottish Equitable Plc trading as Aegon (Aegon). He's unhappy with the drop in the value of his Personal Pension Plan (PPP), and considers that Aegon misrepresented and mismanaged the fund he was invested in.

What happened

In 2011, on his employer's instruction, Mr H's pension was set up under its Group Personal Pension (GPP) with Aegon. A financial adviser was involved in this process and Mr H's policy schedule confirmed his funds would be invested in Aegon's Cautious Lifestyle Fund.

In 2018, when the contributions Mr H's employer was making to his pension stopped, the plan was converted to a PPP.

Aegon sent Mr H an annual statement for his pension in November 2021, confirming a value of around £309,000.

In an annual statement sent to Mr H on 22 November 2022, Aegon confirmed the value of his plan had dropped to around £226,000.

As Mr H was only six months away from his selected retirement date (26 January 2024), Aegon sent a pre-retirement letter in July 2023, which confirmed the value of his pension was around £205,000. Concerned by how much the value had dropped, Mr H complained.

Aegon responded to Mr H's complaint and didn't uphold it. It provided information about market volatility and why fund values were going down. And, in summary, it made the following points:

- The Cautious Lifestyle fund Mr H was invested in was a pre-determined strategy, designed for those aiming to purchase an annuity when they retired.
- It didn't provide financial advice and didn't contact customers when there were fluctuations in the values of their plans or the performance of their investments. Instead, it sent yearly statements with these details and published information on its website.
- Its annual statements explained that the value of investments could rise as well as fall and weren't guaranteed. Customers were also encouraged to seek advice if they didn't think a fund was meeting their investment needs and wished to review their investment options.

Mr H responded, saying Aegon hadn't understood his complaint. He said he'd invested in Aegon's Cautious Lifestyle fund because he had a low appetite for risk, but Aegon had clearly invested his money in a way that far from cautious and exposed him to unreasonable risk. Mr H argued that the Cautious Lifestyle Fund had been misrepresented and asked Aegon to compensate him for the losses he'd suffered.

As Aegon's position remained the same, Mr H referred the matter to our Service. One of our investigators considered the complaint, but she didn't think Aegon had done anything wrong. In summary, she said:

- Although Mr H's employer selected the default fund he was invested in, he could've instructed Aegon to change this.
- Aegon wasn't responsible for advising Mr H on how his funds were invested. It was his responsibility to ensure that where he was invested met his needs.
- Mr H's investment in the Cautious Lifestyle Fund had been managed as intended.
- The drop in the value of Mr H's PPP was unfortunate but caused by events beyond Aegon's control.

Mr H disagreed and, in summary, made the following points:

- Aegon had deceived him, making him believe he was making an investment with minimal risk.
- He understood pension funds had been struggling but hadn't been concerned as he thought Aegon was handling his money cautiously. He'd thought that while the fund might be performing poorly, it would be doing better than other funds.
- Aegon's literature about the fund was misleading. And the way the fund had been managed was contrary to the fund's fact sheet. He accepted that performance wasn't guaranteed but expected the fund to be managed in accordance with its name.
- There wasn't reasonable diversity with where his money had been invested. And by transferring customers into one type of investment when retirement was approaching significantly increased risk if anything went wrong.
- Aegon should've made changes to its Cautious lifestyle fund when its performance began to decline.

As no agreement could be reached, the matter was passed to me for a final 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 it. I realise this outcome will be very disappointing for Mr H, but I'll explain why.

Aegon wasn't authorised to provide Mr H with advice about the suitability of his plan or the fund he was invested in. It appears that Mr H's employer engaged an advisory firm for this purpose, so it would've been its responsibility to make Mr H aware of where he'd be investing, what strategy would be used, and how this worked. Acting solely as the administrator of Mr H's PPP, Aegon's role was to set up the plan in accordance with the instructions it was given.

I'm not aware of all the product literature Mr H was given in 2011 or the nature of any conversations that took place before his application was submitted to Aegon. However, I've seen that Mr H was sent his policy schedule and plan terms and conditions. The policy schedule confirmed that Mr H would be invested in was Aegon's default Cautious Lifestyle Fund, while the terms and conditions and und fact sheet outlined how it would operate. In summary, they set out the following:

- The Lifestyle fund used a two-stage investment process called *lifestyling.*

- It aimed to perform better than its benchmark in the early years (the growth phase) and give more certainty about the amount of pension which could be bought via an annuity at retirement (the retirement phase).
- During the growth phase, the fund aimed to provide long-term capital growth by investing in a portfolio of global equities (shares) which typically delivered a yield higher than that generally available from investment in global equities. It also invested in global fixed interest securities (bonds) and in derivatives.
- The retirement phase started six years before the beginning of a plan holder's target retirement year. Aegon would gradually switch a plan holder's investment into its Long Gilt Fund. Some funds would go into Aegon's Cash fund two years before a plan holder's target retirement year to cater for their tax-free cash entitlement – assumed to be 25% of their pension pot.

I've reviewed Aegon's breakdown of where Mr H's PPP has been invested over the years, bearing in mind his policy schedule, the applicable terms and conditions, relevant fund factsheets and his selected retirement date. Having done so, I'm satisfied that it's been invested in line with the lifestyling strategy of the fund he selected.

Between November 2021 and November 2022, while in the retirement phase of the lifestyling investment process, around 75% of Mr H's PPP was invested in Aegon's Long Gilt Fund with the remainder in its Distribution Accumulation and Cash funds. During this time, the value of Mr H's plan dropped by around £83,000. And by November 2023 – a year later – it had dropped by a further £21,000.

Aegon's terms and conditions clearly stated that Mr H could instruct Aegon to adjust his investment split or change where he was invested entirely if he wished. However, despite significant fluctuations in the value of his plan, Aegon received no such requests from Mr H. Mr H says he didn't make any changes to where he was invested because he didn't consider it to be his responsibility to review the performance of the Cautious Lifestyle Fund or make recommendations about how its investment profile should be changed – he trusted Aegon to do this.

There was never any expectation that as a plan holder Mr H would have any input on how Aegon managed its Cautious Lifestyle Fund and the underlying investments. However, the intention was for Mr H's PPP to provide him with funds to purchase an income for life (annuity) in retirement. So, I think it would've been prudent for Mr H to ensure he was aware of how the fund he was invested in was performing and considering the impact this might be having on the value of his pension, and therefore his future retirement provision. If Mr H wasn't satisfied with how his pension was performing, it was his responsibility to seek advice if he wished and, if necessary, provide Aegon with instructions regarding any investment changes he wanted to make. Aegon made Mr H aware of this option in the annual statements it sent each year; however, as I've said, no instructions were received.

Mr H feels strongly that Aegon is to blame for the losses he's suffered on his pension value. Principally, he says Aegon misrepresented the Cautious Lifestyle Fund and its underlying investments, giving the impression that customers' money was being invested with minimal risk. He argues that Aegon failed to manage the fund in accordance with the relevant fund fact sheets and continued to move money into one investment type (Gilts) that was falling in value, instead of modifying its investment strategy to prevent further losses.

I've carefully considered the points Mr H has made along with the available information for where his PPP funds were invested – the most relevant of which I've set out below. But I haven't seen any evidence that Aegon did anything wrong in the way it represented and managed its Cautious Lifestyle Fund, or how it implemented its lifestyle strategy.

Aegon's terms and conditions stated the following about its investment decisions:

"Notwithstanding the name of the Fund or its description, (Aegon) may in good faith (…) acquire or hold any asset or investment (…) [and] invest in one or more investment funds [underlying investments] (…). Aegon shall decide what constitutes the Retirement Fund (…)

(Aegon) may change where and/or how the Default Fund and/or Retirement Fund is invested and may also change the underlying investment (…)."

On a similar note, the Cautious Lifestyle Fund fact sheet said the following:

"We reserve the right to add, remove, and replace the underlying funds within this solution with the aim to make sure the fund continues to meet its aims and objectives. Please note, there's no guarantee the fund will meet its objective."

The Cautious Lifestyle Fund fact sheet outlined the following regarding the fund's objective and how performance should be considered:

"It aims to perform better than its benchmark in the early years (growth stage) (…) [In the retirement phase] We'll progressively start switching your investment into our Long Gilt fund, with the aim of giving more certainty about the level of annuity you'll be able to buy when you retire (…)

Investors should always consider performance in relation to the objective of the fund and over a period of at least five years (…). If a fund has risen in value, it doesn't mean it is meeting its objective – especially if the fund is aiming to outperform a particular benchmark (…) the same applies if the fund has fallen in value (…)"

And regarding the fund's *"Below-average risk"* rating, the fact sheet said:

"Below average risk funds will generally see some change in day-to-day value, both up and down, and these changes will typically be larger than those of a cash deposit. They may hold a broad range of investment types, including equities (shares), but a significant proportion may also be invested in investments that aim to provide a reliable source of income (like government and corporate bonds) and, with that, greater stability than would typically be available from equities. They try to provide better long-term growth prospects than a cash deposit, but are lower risk than funds investing largely in equities.

Risks specific to this fund (…) There is no guarantee the fund will meet its objective. The value of an investment can fall as well as rise and investors could get back less than they originally invested. All funds carry a level of risk (…)"

The fact sheets for the Long Gilt Fund and Cash Fund, where Mr H's PPP was invested during the retirement phase of his plan, confirmed risk ratings of "Below-average risk" and "Minimal risk" respectively. Both included warnings much like those in the Cautious Lifestyle Fund fact sheet.

The fact sheet for the Long Gilt Fund outlined the fund's objective as:

"(…) to perform broadly in line with the FTSE UK Gilts Over 15 Years Index, net of fees, by investing primarily in UK government bonds (gilts) with maturity dates of 15 years and longer. (…)"

And the Cash Fund's aim was set out in the fund's fact sheet as:

"(…) to outperform the SONIA Overnight Rate, before charges, by investing in short-term, sterling denominated money market instruments such as bank deposits, certificates of deposit and short-term bonds. Instruments held in the portfolio will have a weighted average maturity of no more than 60 days."

Based on the available evidence and what I've outlined above, I think it's clear that as retirement approached, Aegon's lifestyle strategy would involve Mr H's money being moved to funds aimed at ensuring he could target a 25% tax-free cash lump sum and use the remaining 75% of his fund to purchase an annuity. This approach was geared at ensuring his plan value was linked to the price of annuities. So, the objective wasn't simply to retain pension value. And that's why by November 2021, the majority of Mr H's pension was invested in Aegon's Long Gilt Fund. As the fact sheet explained, the Long Gilt fund aimed to follow a benchmark and perform broadly in line with the FTSE UK Gilts Over 15 Years Index. It also explained the relationship between gilt values and annuity rates.

This is a standard lifestyle arrangement offered by most pension providers. So, while I understand that Mr H thinks Aegon's strategy of investing most of his plan in one asset during the retirement phase was an unreasonably high-risk approach, I'm unable to agree. In any event, if Mr H had wanted to invest his pension differently, for example more diversely, he could've done so.

Mr H says he was led to believe the Cautious Lifestyle Fund was low risk and would be managed as such.

The Cautious Lifestyle Fund and Long Gilt Fund are both described as being below average risk, while the Cash Fund is minimal risk. I can see how Mr H might have formed the impression this meant the funds were low risk, but that is not what the available information said. And low risk has little meaning without understanding the risk one's seeking to manage. Risk is relative and must be interpreted in the light of the overall fund objective. In this case, I think the objectives of the funds Mr H was invested in were clear, and sufficient warnings were given to try to avoid any misunderstanding about the level of risk involved.

The risk of a fund not meeting its objective was evident, as was the connection a fund (and its performance) might have with external factors. For example, the Cautious Lifestyle Fund fact sheet warned:

"Lifestyle strategy risk – long gilts and long corporate bonds are used in lifestyle strategies because of their inverse relationship with annuity rates, not because they are 'safe' investments. When long bonds go down annuity rates generally go up and vice versa, meaning the size of annuity you can buy stays roughly the same whether bonds go up or down. But this relationship isn't perfect and can fail, for example there can be a delay between changes in long bond values and annuity rates."

Fixed interest assets like Gilts generally exhibit lower volatility than equity assets over the long term. However, investing in these as part of a strategy doesn't eliminate risk. Unforeseeable global events between 2020 and 2022, including the global pandemic, the war in Ukraine and government policy changes meant that the value of Gilts fell sharply. Unfortunately, this happened when the majority of Mr H's pension was invested.

I appreciate that Mr H feels Aegon should've taken steps to change the Cautious Lifestyle Fund's investment strategy and protect the value of his pension in the light of market volatility. But as I've already said, Aegon had no authority to switch Mr H's funds. It was for Mr H, or an appointed adviser, to make any fund switches or change of course to the investment strategy if he so wished. Aegon's lifestyle strategy also gave it a wide discretion to manage the Cautious Lifestyle Fund and its underlying investments as it thought most appropriate. It was granted that discretion when a decision was made to invest in its lifestyle strategy when Mr H joined the pension scheme.

Although the prevailing market conditions meant the Long Gilt Fund fell in value, I've seen no evidence to suggest it was no longer fit for Aegon's purpose. As the fund fact sheet explained, Aegon's Gilt Fund needed to be managed with a view to the long-term (a period of at least five years), rather than simply reacting to relatively short-term trends in the market. So, as Aegon has explained, taking a short-term view of a Gilt fund's performance and making in the moment changes could easily compromise its potential to recover in the longer term. This is just one of many factors that need to be considered when managing a fund.

I've looked at the historic performance of the Gilt Fund and note the fund fact sheet shows an increase in the fund's performance every year until 2020 when it began to fall. I think it's clear that the effects of the pandemic upon investments generally was a significant factor here. The fact sheet also shows that the fund was performing broadly in line with its benchmark which also saw a decline in performance around the same time. I think this reflects that Aegon managed the fund in accordance with its objective even though that has resulted in it falling in value.

I appreciate what Mr H expected and hoped would happen with his plan. It's very unfortunate how significantly its value fell, and I can understand how upset and disappointed he is by that outcome. But I'm afraid there is sufficient evidence to show that Aegon has done anything wrong in the ways he's claimed. So, while I have real sympathy for Mr H and the losses he's experienced, I cannot fairly hold Aegon responsible for them or ask it to compensate Mr H as he has requested.

My final decision

For the reasons I've given, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 18 April 2024.

Chillel Bailey
Ombudsman