DRN-4862949

The complaint

Ms D complains that ReAssure Limited ('ReAssure') failed to stop a regular withdrawal instruction, unfairly reduced the value of her policy and hasn't provided clear information about charges.

What happened

Ms D is invested in a with-profits fund held in an investment bond which she took out in 2008. While her bond was initially provided by another firm, ReAssure has since taken over the bond from the original provider.

When Ms D received her annual statement in October 2023, she noticed a deduction of £5,182.65 for a Market Value Reduction ('MVR') which she hadn't seen before. Concerned by this she contacted ReAssure for further information about the MVR and other charges she hadn't seen on her statement before. As she thought her regular withdrawals may be causing the MVR she asked ReAssure to cancel her regular withdrawal.

The cancellation didn't happen on time causing Ms D to receive a payment from her investment on 5 December 2023. ReAssure wrote to Ms D on 13 December 2023 to inform her it had now cancelled the regular withdrawal instruction and separately to explain the rationale for the MVR being in place and the charges on her statement.

Dissatisfied with ReAssure's response, Ms D complained about what happened. In summary she said:

- ReAssure failed to cancel her regular withdrawal on time.
- She disagreed with the reason for the MVR being due to performance when a 5.5% bonus had been paid into her investment.
- New charges were showing on her statement which she hadn't paid to the previous provider.

ReAssure considered her complaint but only agreed it should be upheld in part. In summary it said:

- The cancellation was processed in more than the 10 working days it should take.
- The MVR was applicable to the plan in the circumstances.
- The charges now showing on the statement have been in place since inception.
- These charges are only now showing on statements as ReAssure where replicating what the previous provider showed and has only recently been able to provide the actual figures.

For the inconvenience caused by delaying the withdrawal cancellation request, ReAssure issued Ms D a £350 payment as an apology. It also offered to reinstate the payment into the investment if Ms D returned it.

Ms D remained unhappy with ReAssure's answer and referred her complaint to our service. One of our Investigators looked into her complaint and explained he thought the offer already made was fair. In summary he said:

- ReAssure should've stopped the withdrawal in time but the offer it made around that was fair.
- The MVR was set out in the product literature, is standard practice and the withdrawals didn't impact it.
- The fees hadn't changed since ReAssure took over the policy.

Ms D didn't agree with our Investigator, she said:

- The charges weren't fairly disclosed and felt they were hidden in other figures on the statement.
- It wasn't reasonable ReAssure couldn't provide the charges history or the calculations leading to the MVR being applied.
- ReAssure's letter to her said her withdrawals would be affected by the MVR.
- The number of units in her bond had reduced by 11,600 since ReAssure took over the policy.

As an agreement couldn't be reached, Ms D's complaint was passed to me to decide.

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.

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<u>MVR</u>

ReAssure has provided the earliest available copy of the terms and conditions for this investment from 2010. Given the passage of time, it isn't unreasonable ReAssure hasn't been able to provide the version from the time Ms D took out her investment. But on balance, I'm satisfied it is likely a fair reflection of the terms in place from the time of sale where the version provided is from soon after the sale and reflects the working of a typical with-profits investment.

Within this document, section 11 sets out information about the MVR. This includes the following:

> "Whilst the investment remains in With Profits units, the values calculated for any of the following may be reduced by the application of a Market Value Reduction to take account of market values of investments at the time and the need to be fair to all our With Profits policyholders:
>
> i) Full surrender.
> ii) Partial surrender.
> iii) Regular withdrawals in excess of the limits explained in Section 7.e).
> iv) A switch out of With Profits to an investment fund or investment funds.
>
> A Market Value Reduction will normally be applied if investment returns have been less than are required to support the bonuses that have been declared. The amount

> of any Market Value Reduction will be determined at the discretion of [ReAssure] so as to ensure that the investments remaining are not adversely affected by paying more than is fair to those withdrawn."

I've also seen copies of the more recent product literature which explain a MVR reduction could apply to the investment, and does so in a clear, fair and not misleading manner.

I'm satisfied then the above clearly set out from the outset, and during the life of the policy, that there may be a reduction applied to the investment value in situations where the underlying investment performance have been lower than required to support the bonuses paid into the fund. While ReAssure has this discretion, I would expect it to apply that fairly.

MVRs such as this are typical with with-profits investments. These funds work by paying bonuses which can't be taken away during the life of the fund. In times of good performance some payments are held back and paid to investors in times of lower performance. This is called 'smoothing' and is at the firm's discretion. If the underlying value of the investments fall below an amount that can sustain the payment of those overall bonuses, there is a risk to the fund's liquidity should too many investors surrender their investments. To be fair on all investors, firms apply MVRs at their discretion until a time when the situation improves.

In many cases the MVR is temporary and in recent years with-profits funds have been affected due to market difficulties, largely caused by increases in interest rates and the impact of war on the markets. ReAssure hasn't provided the detail of its calculations around its MVR being implemented, citing commercial sensitivity. I appreciate Ms D thinks that information is essential to deciding her complaint, but I don't think it is. I'm persuaded the market events over recent years and how her portfolio was invested, primarily in UK equities and fixed interest securities, would cause the sort of performance which would cause an MVR to be implemented.

I understand Ms D feels the MVR looks unreasonable where a bonus of around 5.5% was paid. While I agree that would look unusual, there would be many factors behind that, such as the application of smoothing or savings made elsewhere. In any event both the MVR and bonus payment is at ReAssure's discretion. I'm satisfied the bonus being paid doesn't mean ReAssure is acting unfairly in applying an MVR given that is in place to deter encashment which is separate to the payment of bonuses.

Fundamentally ReAssure has reasonable discretion whether to apply the MVR to ensure fairness to all the affected investors. It follows then I'm satisfied in the circumstances it has applied that fairly for the reasons explained above.

I appreciate Ms D has had differing information about whether the MVR applies to her withdrawal and from my reading of the policy that's because it is possible an MVR could apply. Whether it does or not depends on how the withdrawal is executed or if it exceeds a maximum limit, which is dependent on the level of bonuses. ReAssure has said the withdrawals Ms D has received weren't reduced by an MVR and I've not seen any evidence to suggest it has.

It follows then I'm satisfied the MVR was set out in a clear, fair and not misleading manner and that ReAssure has applied it fairly in the circumstances.

<u>Fees</u>

I've reviewed the statements Ms D has provided from 2020 to 2023. The charges set out in the 2020 to 2022 statements mentions only a section for charges paid to advisers, which was £0. The 2023 statement adds a new entry for charges paid to ReAssure for £1,004.89.

Understandably Ms D is concerned this appears to be a new charge where it wasn't on previous statements. Following rule changes which were implemented in 2018 through COBS 6.1ZA.14 following the implementation of MiFID II, firms were required to provide all the costs and associated charges applied for investment services, and to who those payments are made.

The statements I've seen from 2020 and 2022 don't include these charges and it's likely they didn't prior to this. ReAssure says it had difficulties implementing this change and still isn't able to provide them to Ms D prior to the 2023 statement. It says this is due to the charges being incurred daily and isn't able to source that information from the time. But that doesn't affect the rules in place at the time required them to disclose the costs, as ReAssure has done since the 2023 statement.

However, I have also considered on balance that Ms D was likely given information about the charges from the outset. I say this because the terms and conditions from 2010 set out the various charges applicable to the investment and it explains some charges can't be specified in an exact amount or an upfront percentage – which included the management charges Ms D now complains of. It says here this is because the charge reflects the costs the fund has incurred over the period through management of the fund and dealing. Approximations are given in this document citing the rate at that time being 1.3% for management and for additional fund expenses, 0% to 0.08%. Which appears similar to what Ms D is paying now.

It follows then while ReAssure failed to disclose the charges on the statement, I think its likely Ms D was made aware of them from the outset and that these would be deducted from her policy value by selling units. These charges would be incurred whether they were disclosed on the statement or not and so I can't fairly say Ms D has been disadvantaged financially by ReAssure not setting them out on the earlier statements. I say this because I'm not persuaded seeing these charges earlier would've made her take any other action when she likely would've been aware of them from inception.

But I accept ReAssure has caused Ms D inconvenience by not providing her with that information or the historic charges it says it can't provide her with.

I'm persuaded by not disclosing those charges when it should've and not being able to provide the historic amounts, ReAssure has caused Ms D frustration and inconvenience by not providing her with information she is entitled to. I'm satisfied she's spent time and effort communicating with ReAssure about this and its responses have clearly caused her frustration and further inconvenience.

However as far as providing her with the earlier charges now, ReAssure has provided information which satisfies me it has reasonably attempted to calculate them but hasn't, and seemingly can't do so. I won't then direct it to provide the detail of those charges when I don't think it would be practical where ReAssure likely won't be able to provide them.

<u>Withdrawal</u>

ReAssure agrees it failed to handle Ms D's withdrawal request in a reasonable time, so I don't need to comment on that further. I've not seen any evidence that outside of the frustration and inconvenience caused that ReAssure failing to stop the withdrawal has detrimented Ms D.

I say this because an MVR wasn't applied to her withdrawal and ReAssure offered to put the payment back into the bond if Ms D returned it to her, at which point was a decision for her to make. I'm satisfied then ReAssure doesn't need to do anything more to put things right here but has caused her inconvenience and frustration by it not cancelling the withdrawal when it should've. I say this because she's had to communicate with ReAssure about this when she shouldn't have needed to if it been cancelled correctly. It also caused her worry where she was concerned about the impact her withdrawals were having on the policy's MVR.

<u>Summary</u>

ReAssure has caused Ms D frustration and inconvenience by ReAssure not cancelling the withdrawal in time and by not disclosing or providing the charges since the new rules came into force.

But I'm satisfied the £350 ReAssure has already offered and paid to Ms D fairly reflects the impact those failings have had on her given it caused her worry, frustration, and inconvenience of communicating with ReAssure around those matters.

I understand and appreciate Ms D's frustration around these events, but I've not seen I need to direct ReAssure to do anything more than it already has.

My final decision

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms D to accept or reject my decision before 11 March 2025.

Ken Roberts
Ombudsman