DRN-4868880

Financial Ombudsman Service

The complaint

Mrs H held a Group Pension Plan (GPP) with Scottish Equitable Plc trading as AEGON (Aegon). Mrs H is unhappy with a drop in her GPP value.

What happened

The plan was set up in 2002 and the selected retirement date was February 2022. The fund was invested in the 'Balanced Lifestyle' fund. The fund was geared towards Mrs H purchasing an annuity in retirement. So, as she approached her selected retirement age the funds would be changed to align with the retirement goal.

On 13 December 2019 Scottish Equitable wrote to Mrs H as it wasn't long until her selected retirement date. This correspondence set out:

> *"You're currently invested in the Balanced Lifestyle fund through your Aegon pension. As you're close to retirement, this fund is ¡n the process of changing how it invests. It's designed for those which intend to buy an annuity, which is a guaranteed income for life in 2022. This is an automated process.*
>
> *Now's the time to review whether this is still what you want to do as you have a number of options.*
>
> ***What you need to do now***
>
> *It's important that you:*
> *• check your selected retirement age (see opposite), because this will affect when your fund switches into different investments,*
> *• consider whether you still intend to buy an annuity.*
>
> *If any of the above has changed you may need to review the fund you're invested in."*

And

> *"We recommend that you take advice or guidance beforehand as these are important decisions."*

On 22 February 2020 Aegon provided Mrs H with her annual statement. It set out the value of her plan and what fund it was invested in. On page two it set out:

> *"Getting advice and reviewing your plan*
>
> *If you want to look at your options or review your investments, we recommend that you speak to your financial adviser. They can also advise you on increasing or re-starting contributions to your plan or combining other pension plans with this one.*
>
> *If you don't have a financial adviser, you can visit unbiased.co.uk"*

In February 2022 Aegon wrote to Mrs H. They asked her to urgently let them know if she was going to take her benefits or defer her retirement date. It set out:

> *"In accordance with the Policy Conditions, the investment in the SE BALANCED 2022 has been switched to the Retirement Fund, with effect from your selected retirement date."*

Aegon say Mrs H called them to let them know she hadn't decided yet what she wanted to do with her pension. And she notified Aegon that she would like to defer her retirement date by three years. Aegon has said the agent didn't ask Mrs H if she wanted to realign her lifestyle strategy with her new retirement date, which they should have done. So, an email was sent to Mrs H in early March 2022 to ask her to confirm if she wanted to realign her retirement date. Aegon has said they didn't receive a response.

On 12 September 2023 Mrs H's representative raised a complaint with Aegon. They said that her GPP had been invested in a retirement fund which Aegon had not reviewed. And that Aegon had a regulatory obligation to review their investment funds regularly to ensure they remained appropriate.

On 15 September 2023 Aegon responded to Mrs H's complaint within their final response – they didn't uphold it. In summary they said that they were the administrator of Mrs H's GPP and had invested her funds as had been set out when the policy was taken out in 2002.

Mrs H wasn't happy with this response, her representative questioned it. Aegon provided comments from their investment team. They set out:

> *"We continue to monitor performance of the Scottish Equitable Retirement fund through quarterly reporting to the Independent Governance Committee (IGC) and whilst returns are significantly negative, the fund is performing as expected relative to its benchmark: 75% FTSE Actuaries UK Conventional Gilts Over 15 Years / 25% SONIA Overnight Rate.*
>
> *The Scottish Equitable Retirement fund is designed to buy an annuity on retirement and as a result has a significant holding in long gilt assets. The reason for this is to reduce the volatility in the final amount of pension that they will receive i.e., the value of the annuity that their fund (pension savings) can purchase. So, while the Long Gilt fund has dropped in value, we have seen annuity rates go up significantly.*
>
> *While the relationship between long gilts and annuity rates is not perfectly inverse, we feel the fund has performed as expected (with annuity rates moving in the opposite direction to the fund value), so the outcome is as expected – a broadly stable future pension income.*
>
> *As a long-term investment strategy, there can be period of short-term performance challenges, however, our strategy has been designed to generate good customer outcomes over the lifetime of the investment and customers contributions.*
>
> *We perform regular reviews of our strategies (which predates introduction of Consumer Duty rules) to ensure they continue to meet customer expectations taking into account various factors, such as regulatory changes and risk and return metrics of asset types. With large market movements as see* [sic] *recently, Aegon would not necessarily make immediate changes given the need to focus on long term performance / long customer outcomes."*

Mrs H referred her complaint to this service on 11 March 2024. In response Aegon provided their file to this service and added that Aegon:

- Are the administrators of Mrs H's GPP. They are not able to provide her with advice about her individual investments. And they're not able to move her fund as they see fit.
- Made a mistake by not asking Mrs H if she wanted to realign her lifestyling strategy with her deferred retirement date when she called them. And for that they apologise – but, they emailed her following the call and didn't receive a response.
- Mrs H's 2022 statement shows that there was a drop in value of her GPP, and that the funds were still invested in the retirement plan.
- There has been no attempt by Mrs H, or her IFA to mitigate this loss following the IFA's contact with them in August 2023.
- Long gilts (which is what Mrs H's fund is invested in) have been impacted by global instability in the markets since 2020. The government's mini budget in 2022 had a significant impact on long gilts. And there have been several increases to the Bank of England interest rates which has had a negative impact on long gilts too.
- The fund has been performing within it's benchmark and therefore stated objective. The fund managers do not have discretion to make investment choices outside the constraints of the particular fund they are managing.
- This complaint had been brought out of time – having been referred to this service more than six months after Aegon's final response letter.

An Investigator considered Mrs H's complaint. In summary they said that it had been brought in time. They explained that in order to uphold the complaint they would need to be satisfied that Aegon caused the drop in value of Mrs H's fund – which they didn't think they had. So they weren't upholding it.

Mrs H wasn't happy with the outcome. She said that she understood Aegon's lifestyling process. But, her complaint centres around Aegon not reviewing the fund she was invested in under the new Consumer Duty. She said that the fund needed to be reviewed and checked that it was 'fit and proper'. And that there had been many complaints about the same issue.

The Investigator responded to Mrs H – they said that this service can only comment on Mrs H's individual complaint. And that the choice of funds offered by Aegon is a commercial one which this service wouldn't comment on.

Mrs H requested an Ombudsman review her complaint.

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 appreciate this will come as a disappointment to Mrs H, but having done so I'm not upholding her complaint. I will go on to explain why, but first I must address Aegon's suggestion that this complaint has been brought out of time.

<u>Jurisdiction</u>

Aegon have said that this complaint was referred to this service more than six months from when they issued their final response letter. The regulator – the Financial Conduct Authority (FCA) set out this service's jurisdiction within their Handbook under a section entitled Dispute resolution (DISP). Along with other considerations the FCA set out that this service can't consider a complaint if a consumer refers it to this service more than six months from a firms' final response letter.

Aegon issued their final response to Mrs H on 15 September 2023, and Mrs H referred her complaint to us on 11 March 2024. Which is within six months of Aegon's final response letter. As such this complaint has been raised in time and I have jurisdiction to consider it, which I will go on to do.

<u>My findings</u>

When considering what's fair and reasonable in the circumstances, I need to take account of relevant law and regulations, regulator's rules, guidance and standards, codes of practice and, where appropriate, what I consider to have been good industry practice at the relevant time.

I have considered everything that has been provided to me by both parties. But I don't intend on commenting on every detail here, instead I have focussed my decision on what Mrs H has described as her main complaint point.

Mrs H has said that the crux of her complaint is that the retirement fund her GPP is invested in is not fit for purpose. She says that under the FCA's new 'Consumer Duty', Aegon are expected to carryout regular reviews of the fund that she was invested in, and make changes to it if it was not fit for purpose. I take it from Mrs H's complaint that she feels a lack of review of the fund she was invested in – the retirement fund - has led to the loss in value that she has complained about.

I should firstly explain that the Consumer Duty is a new standard for firms which was introduced by the FCA. It sets a higher standard for firms in terms of their treatment of customers, and it applies to events from 31 July 2023 for open products and 31 July 2024 for closed products. Aegon has confirmed that Mrs H's GPP is a closed product so the Duty only applies from 31 July 2024 and it's not retrospective. What Mrs H is unhappy with, happened before 31 July 2024 so the duty wouldn't apply here.

I would, however, like to assure Mrs H that Aegon has <u>always</u> been subject to the FCA's Principles and rules which were essentially to act in Mrs H's interests and treat her fairly. In reaching my decision I've taken these Principles and rules into account.

Aegon are the administrator of Mrs H's GPP, they're not able to provide her with advice about her individual circumstances. I appreciate Mrs H has not complained about her individual circumstances, but I think it's important to set out what Aegon are responsible for. Aegon, when reviewing the funds they offer are not doing so considering any one individual – they are reviewing the funds in line with a set of parameters for that specific fund.

Aegon have said that they monitor the performance of the retirement fund quarterly reporting to the Independent Governance Committee (IGC). And they've said the fund has performed as expected. Whilst Mrs H saw her pension fund value decrease, she will appreciate that this was due to the fund holding a significant amount of monies in long gilt assets. Mrs H has said she understands how lifestyling works – but that Aegon should have changed the investment strategy of the fund when the fund began losing its value.

However, these types of investments were regularly chosen for lifestying investors' pension funds in preparation for them purchasing an annuity. That is because, essentially, annuity rates vary in line with interest rates. So if market interest rates fall, bonds that pay a certain rate of interest become more attractive - so their face value would likely increase. This means the value of the pension fund would go up and this would offset the reduction in income from Mrs H getting a lower annuity rate. However, the reverse is also possible: if interest rates increase, the value of the pension investment is likely to decrease but the annuity rate would correspondingly increase, giving Mrs H broadly the same level of annuity income in the end despite having a lower fund value.

Based on everything I have seen, I think Aegon did what they should have by providing Mrs H with clear information about where her fund was invested. And they suggested that she seek independent financial advice if she was unsure about her investment strategy. Ultimately it was for Mrs H to ensure that her pension monies remained invested according to how she wanted to take the benefits.

I've not seen anything to suggest that Aegon mis-managed Mrs H's fund, and so they're not responsible for the decrease in its value. I don't doubt that Mrs H has found the situation distressing, to see her pension value decrease so close to retirement. I appreciate this will come as a disappointment to Mrs H, but I've not found that Aegon are responsible for any valuation loss she has suffered, so I'm not upholding her complaint.

My final decision

I don't uphold Mrs H's complaint about Scottish Equitable Plc trading as AEGON.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs H to accept or reject my decision before 15 January 2025.

Cassie Lauder
Ombudsman