

The complaint

Mr O complains that Scottish Equitable Plc trading as Aegon (Aegon) unfairly failed to allow him to invest in a specified gold fund and a specified silver fund without a financial adviser.

What happened

Mr O has a Self-Invested Personal Pension (SIPP) with Aegon, which I understand is in drawdown. He holds this SIPP on a non-advised basis. I understand that he started the SIPP in early 2024. And that it held around £285K in assets around the time of the complaint.

On 5 July 2025, Mr O called Aegon to discuss investing £150,000 in a named gold fund and £50,000 in a named silver fund. These both had an investment risk of 4 out of 7, with 7 being the highest risk. He told this service that although he'd found these funds in Aegon's Fund Research Centre, its system didn't allow him to select them for investment.

Aegon told Mr O that he'd need an adviser to make the desired investments. It said its sister company – which I'll refer to as company O - would contact him to discuss this further. Mr O said he explained that he was a former finance professional. And that he neither needed - nor could afford to take – advice.

On 5 August 2025, Mr O said he called Aegon again as he hadn't heard from company O. It said it would chase it for an appointment. Aegon also explained its gating levels during this call. It said that if the fund wasn't showing up when Mr O searched for it within his account, it was because it wasn't available for his gate level.

On 16 August 2025, Aegon wrote to Mr O. It explained that its gate system assigned his level of access to buy and sell certain investments. It noted that this was described in section 7.3 of the SIPP's terms and conditions.

On 20 August 2025, Mr O called Aegon to tell it he'd met with company O. He said it wouldn't advise him on investing in physical gold and silver. He said the adviser felt that Aegon had incorrectly placed the investments he wanted to make into gate four. He asked Aegon to move those investments to gate three. Aegon's call handler raised this with its dealing team the same day.

On 21 August 2025, Aegon wrote to Mr O. It said that the gold and silver investments he wanted to make were Exchange Traded Commodities (ETCs). It said they were correctly classified as gate four. As such, they were only available for advised clients. Mr O felt that this gating was simply company policy, not law.

Mr O raised a complaint on 25 August 2025. He felt that Aegon had said he'd require advice if he wanted to invest in physical silver and gold. But he couldn't access that advice. He also felt that Aegon's gating policy was internal policy rather than law. And that it was preventing him from doing what he wanted to do. He asked it to allow him access to his desired funds without advice.

Aegon issued its final response to the complaint on 29 August 2025. It acknowledged that Mr

O wanted to invest in physical gold and silver. But said that the assets he wanted to invest in were classed as ETCs. It said these were only available for advised clients in gate four. It said this was its company policy.

Unhappy with the response, Mr O referred the complaint to this service on 4 September 2025. He said he was losing out on investment growth because of Aegon's decision to classify physical silver and gold under gate four. He also felt he was wasting time and effort looking for an adviser he didn't need.

Mr O told this service that in October 2025, he'd invested in two high-risk (level 7 of 7) funds to illustrate his point that Aegon's systems weren't trying to protect him from investing in high-risk investments. Aegon confirmed to this service that Mr O hadn't needed advice to be able to carry out this investment. It said that all the ETCs it had available were only available through advisers, as they were all in gate four. It said it didn't classify ETCs as gate four because they were complex instruments. Instead, it did so as a business decision. It said the funds Mr O had invested in in October 2025 were classed as gate two mutual funds. Aegon said although those funds might have similar investment objectives, they had different trading methods and legal structures.

Aegon acknowledged that Mr O was frustrated with its position. But said it had gating levels to protect itself and its customers.

Mr O told this service that he'd lost the opportunity of a £57,500 profit because Aegon had prevented him from investing in his chosen funds. He felt it'd breached several regulatory principles.

To put things right, Mr O wanted Aegon to:

- Acknowledge it had applied internal policy incorrectly and misrepresented Financial Conduct Authority (FCA) regulations.
- Remove unfair gate four restrictions for ETCs on execution-only accounts.
- Compensate him for his opportunity loss and the distress it'd caused.

Mr O felt that although Aegon's systems advertised SIPP-eligible gold and silver ETCs, it then blocked their purchase, misleading investors and breaching FCA Principles and Consumer Duty. He felt that the fact that it allowed higher-risk investment under lower gating showed it acted inconsistently and unfairly.

Mr O also made detailed submissions to this service about what he felt demonstrated the following:

- Aegon's gating policy and its misleading communication
- Aegon's misleading "*Learn More About Potential Restrictions*" section. He felt that while this section appeared to be a complete list of potential restrictions, it had omitted the fact that customers below gate four couldn't invest in Exchange Traded Funds (ETFs)/ETCs for policy reasons.
- Aegon reported to offer certain funds which weren't then available.

Mr O told this service that he was retired, disabled and lived on modest means. He said his sole material asset was his Aegon SIPP. He felt Aegon's internal gating policy had prevented him – a former finance professional - from investing in the funds he intended

without advice. He also noted that as he couldn't obtain such advice, it was impossible to meet Aegon's requirement.

Our investigator didn't think that Aegon had made any errors. While she acknowledged that Mr O had worked in finance for some years, she felt that Aegon's gating policy was fair, as it treated all customers the same way. She also noted that in any event, this service didn't have the power to ask Aegon to change its process.

Our investigator noted that Mr O had invested in other high-risk funds that hadn't been classified as gate four, so didn't require advice. She also understood that if Mr O had been able to invest in his chosen funds, he would've made an investment gain. But she didn't think Aegon should compensate him for opportunity loss or any distress caused as she felt it'd made it clear that he couldn't invest in gate four investments without an adviser on his account. She felt that Aegon had acted in line with its terms, conditions and obligations by explaining when it required an adviser on the account before certain investments could be made.

Our investigator also noted that Mr O felt that Aegon hadn't been transparent with its investment switching process. She acknowledged that he only found out he couldn't trade in his desired gold and silver funds after speaking to it directly, rather than receiving an online warning message. And that he felt it would be appropriate for Aegon to include warnings or notifications on its fund research centre. But she felt that Aegon had acted in line with its terms and conditions without error.

Mr O didn't agree with our investigator. He still felt Aegon had an impossible policy. And that this had led to lost gains of £57,500. He wanted it to compensate him for this loss, plus interest. He felt our investigator's view had overlooked the systemic unfairness at the heart of Aegon's gating policy. He made the following points:

- Aegon's policy required an adviser to place gate four trades. But the adviser it'd referred him to wouldn't advise him on the trade he wanted to place. He felt that no adviser was willing to do this. And that Aegon's policy was therefore impossible to satisfy. He felt this breached PRIN 6 (treat customers fairly) and the Consumer Duty's rule to avoid foreseeable harm.
- He said that it wasn't correct to say that all he needed to do to be able to trade in gate four assets was add an adviser to his account. He said that instead, the adviser must place the order on his behalf, after it'd provided regulated advice.

Mr O said that physical ETCs were non-complex. And that they didn't require mandatory advice. He felt that Aegon's policy on the gold and silver ETCs he wanted to invest in was arbitrary and inconsistent, noting that Aegon had allowed him to make a non-advised investment in non-ETC gold and silver funds in October 2025. He felt it was unfair that Aegon had blocked his investment in the lower-risk physical ETCs. Mr O also provided further examples of funds he said were higher-risk than the ETCs he wanted to invest in, but which were available to him as a gate three investor. He felt this showed that Aegon's gating wasn't risk-based.

Mr O also felt that Aegon's platform had misled by omission. He said that products which appeared as "SIPP Available" in the Fund Research Centre vanished in the transaction engine. He felt this lack of transparency meant that Aegon failed to meet the Consumer Duty Outcome 3 (supporting informed understanding) and PRIN 7 (clear, fair communications).

Mr O felt that Aegon had harmed his financial security by blocking his access to SIPP-eligible funds he'd wanted to invest in. And that this had foreseeably harmed his financial

security. He referenced several previous Ombudsman decisions which had been upheld which he felt were similar to his case.

As agreement couldn't be reached, the complaint has come to me for a review.

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 going to uphold it. I know this will be disappointing for Mr O. I'll explain the reasons for my decision.

I first want to say that the Financial Ombudsman Service doesn't have the power to make rules for financial businesses, in terms of directing that they should change their policies or procedures. That is the role of the regulator, the FCA. We look at what has happened for the individual to make a complaint and check that a business has followed their rules and procedures and is applying them fairly and consistently to their customers.

I also note that Mr O has referenced several previous Ombudsman decisions in his submissions. While I've noted the decisions referenced, this service decides each case on its own individual merits. As such, I won't comment on the cases Mr O has referenced.

Further, I acknowledge that I've summarised Mr O's submissions in a lot less detail than he presented them. I've not commented on every point raised. Instead I've focussed on what I consider to be the key points I need to think about. I don't mean any discourtesy about this, but it simply reflects the informal nature of this service. I assure Mr O that I've read and considered everything he provided.

I first considered whether Aegon acted fairly and in line with its terms and conditions when it refused to allow Mr O to invest in his chosen funds without first taking advice on his intended investments.

Did Aegon act fairly and in line with its terms and conditions?

Aegon's policy classifies ETFs and ETCs as gate four investments and requires all investors who wish to invest in those types of assets to take advice before they can invest. It also requires the adviser to instruct any trade.

Aegon itself can't provide financial advice. Therefore, when Mr O told it he wanted to invest in ETCs, it reasonably referred him to company O. An adviser from company O then told Mr O that he couldn't advise on the investments he wanted to make.

Mr O felt Aegon's gating policy had unfairly prevented him, as a former finance professional, from making his intended investments without advice. As such, he felt that Aegon's policy and system design were misleading, discriminatory, and contrary to FCA Principles and Consumer Duty.

Mr O said he'd first learned about Aegon's gating process during the July 2025 call. He also felt that the explanation he'd then been directed to on Aegon's website contained misleading and unfair wording.

The terms and conditions in force when Mr O took out his SIPP stated the following under section 7.3:

“Access to products and investments (gating)”

Your adviser may, and your employer will authorise you to carry out certain transactions within the Service. The level of transaction that you will initially be able to carry out will depend on the transactional level of access that you have been given by us or your employer. These transactional levels are referred to as ‘gates’. The details of the gates and the product wrappers and investments that you can transact under each gate, are available on the Service or you can ask your adviser (if you have one) what these are.”

I think the terms and conditions are clear and not misleading that Aegon operated a gating system. And that further details would be available on request.

I’m also satisfied that Aegon’s gating document made it clear that Mr O was in gate three. And that this meant that he couldn’t invest in the way he wanted to without first taking regulated advice. I say this because the gating document stated:

“You are currently in gate three. If you want to access products and investments in gate four you must do this through your financial adviser. If you don’t have a financial adviser, you can visit [web address] to find the right one for you”.

I understand that Mr O felt that Aegon’s platform had misled by omission when funds that appeared as “SIPP Available” in its Fund Research Centre vanished when he tried to invest in them.

While I acknowledge that Mr O said he didn’t find out about gating until July 2025, I would’ve expected him, as a former financial professional, to have noted this point when he took out his SIPP in early 2024. Had he done so, I think it would’ve been reasonable for him to have understood that Aegon’s Fund Research Centre was likely to contain funds that he didn’t necessarily have the right to invest in.

To put this another way, I think it was reasonable for Aegon to show all the potential funds available within its Fund Research Centre, but to ensure that only those funds which met each of its customer’s gate levels were available to them to invest in online. And I don’t agree with Mr O that Aegon breached the Consumer Duty because this process allows customers to research all the funds available even if they don’t have the appropriate gate level to invest in them. Consumer Duty doesn’t require universal access to all funds. And in any event, customers still have the option to take advice to move up gates and therefore access the assets they want. I know Mr O doesn’t agree with me on this point as he felt he couldn’t access the advice he needed to move up gates. I’ll consider this point later in my decision.

I also acknowledge that Mr O didn’t feel that Aegon’s communication about gating had fairly represented its business decision to use gating. He felt the wording it used had misrepresented its policy as regulation. But having reviewed that wording, I’m not persuaded that it did. I say this because there’s nothing in the wording Mr O submitted that suggests Aegon’s policy was an FCA requirement. And because as I noted at the start of my decision, Aegon is entitled to decide on its own policy.

I also note that Mr O felt that because FCA rules permit execution-only access to exchange-traded products if an appropriateness check is offered, Aegon shouldn’t have banned his own access without advice. But this isn’t a regulatory requirement. So again, Aegon is entitled to make its own business decision on whether to permit such access.

I can see that Mr O felt that Aegon’s gating policy was unfair to former finance professionals like him. He felt he should be able to make his intended investments without advice. But I

can't reasonably agree that Aegon's policy here amounts to an unfair restriction on competent investors. I say this because I'm satisfied that Aegon clearly explained its gating requirements and that it applied them fairly across all its customers. I'm satisfied that this shows it was treating all its customers fairly.

Mr O felt that it was impossible to meet Aegon's requirements for gate four. He said he couldn't obtain the advice required. So I went on to consider this point.

Is it possible to get advice on ETC investment?

Mr O felt that Aegon's policy of requiring advice before it would give a customer access to gate four investments was an impossible requirement for physical gold and silver investments, which our investigator had failed to consider. He felt that no adviser was willing to provide such advice. He therefore felt Aegon should be held responsible for his lost opportunity of a gain of £57,500.

While I appreciate that the one adviser Mr O approached refused to advise him on his intended investment, I'm not persuaded that it's not possible to get advice on ETC investment. I say this because I haven't seen enough evidence to conclude that no adviser would've been willing to provide Mr O with the required advice. As such, I'm not persuaded that he was unfairly prevented by Aegon from accessing the investments he wanted to buy.

Having said that, I am doubtful that any adviser who assessed Mr O's needs in retirement would've agreed to provide him with the regulated advice he needed to enable him to invest most of his money in non-income producing assets. I say this because Mr O told this service that he relied on his SIPP to support his low retirement income. Therefore his desired investment wouldn't meet his income needs.

I appreciate that Mr O wants Aegon to remove what he sees as its unfair gate four restrictions for ETCs on execution-only accounts. But for the reasons I've discussed above, I can't reasonably require it to do so.

I went on to consider Mr O's point that Aegon had been inconsistent and unfair when it'd allowed him to invest in higher-risk investment than the gold and silver ETCs.

Is Aegon's gating policy inconsistent and unfair?

Mr O felt that Aegon had acted inconsistently and unfairly when it failed to allow him to invest in physical ETCs – which he felt were non-complex – without advice. But that it had allowed him to make higher-risk investments in non-ETC funds in October 2025. He felt this showed that Aegon's gating wasn't risk-based.

As I noted earlier in my decision, it's for Aegon to decide on its own policy. And it's reasonable for it to put ETFs and ETCs into gate four which means they require a customer to take advice before investment.

I noted Mr O felt that Aegon's gating wasn't risk based, but I'm not persuaded that it's required to be. The evidence shows that an investment's risk level is not directly related to its gating. Instead, Aegon has taken a reasonable business decision to require advice for all ETFs and ETCs, regardless of the individual risk level.

I therefore can't reasonably conclude that Aegon's gating policy is unfair or inconsistent.

I know Mr O is frustrated that he can't invest in his chosen assets without advice. I appreciate that this has affected his investment plans. But based on the evidence I've seen,

I've not found that Aegon has done anything wrong. So I can't reasonably uphold the complaint.

My final decision

For the reasons I've set out, I don't uphold Mr O's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr O to accept or reject my decision before 4 March 2026.

Jo Occleshaw
Ombudsman