

## The complaint

Mr A complains that ReAssure Limited has mismanaged his personal pension policy (PPP).

## What happened

Mr A says that in 1998, a financial advisor employed by Legal & General Assurance Society (L&G) visited his house several times to advise him on making contributions to his existing L&G pension policy.

In April 2015, L&G wrote to Mr A to say it was closing its With Profits (WP) Fund. And in 2020, Mr A's policy was transferred to ReAssure.

On 5 May 2022, ReAssure wrote to Mr A to let him know his policy would mature on 1 July 2022. The letter went on to say that if Mr A would like to stay in the WP fund, he should notify ReAssure at least 10 working days before 1 July 2022.

Mr A later complained to ReAssure that his policy was mis-sold. On 26 May 2022, Mr A instructed ReAssure *"not to convert my policy to anything that would result in even lower returns as I do not intend to retire in a few weeks time at the age of 60."*

On 4 July 2022, ReAssure issued its response to Mr A's complaint that his policy was mis-sold. It said Mr A became a member of his company pension scheme in 1989. The scheme was administered by L&G but it did not provide him with advice to take it out. And in 1998, L&G advised Mr A to begin making regular contributions to his policy. Mr A was employed, earning around £32,000 a year and advised to make regular contributions of £123 per month. 50% of Mr A's contributions were invested in WP fund and 50% into a managed fund.

ReAssure wrote to Mr A again on 5 July 2022 to say his pension benefits were not taken at his selected retirement age, its system had automatically deferred his retirement age to 99. ReAssure confirmed Mr A could take his benefits at any time.

Mr A also emailed ReAssure on 5 July 2022 to ask why he was no longer invested in the two WP funds he was invested in previously. Mr A said:

- L&G treated customers unfairly by keeping a higher proportion of investment returns from policy holders. Investment performance between 1998 and 2020 was very good but the amount allocated to policy holders was much less.
- L&G managed and communicated changes to his plan poorly, including the removal of a one-off windfall payment in 2015, without any compensation.
- Poor investment performance was masked by combining the reporting of Mr A's 'protected rights' benefits (from contracting out of SERPS) with his 'non-protected rights' (from his personal contributions). In recent years, Mr A's statements showed his total pension pot with no separation of his protected and non-protected right benefits. Mr A says this makes it difficult to ascertain investment returns and how bonuses were applied to his funds.

- ReAssure's complaints department passed on his request of not making changes to his investment choices to another department without taking any active follow up role to ensure that his request was followed. Mr A said ReAssure failed to act on his request as his pension pot diminished between April and December 2022. In February 2022, Mr A's pension was valued at £162,836.04. But by January 2023, his statement showed his pension was valued at £157,030.92.

Unhappy with this response, Mr A referred his complaint to our Service in late 2022. And in January 2023, Mr A complained that ReAssure failed to collect his policy premiums after his nominated retirement date in July 2022. ReAssure offered Mr A a resolution to his complaint, so it was not referred to our Service.

After one of our Investigators began to review Mr A's complaint, ReAssure issued another response dated 7 September 2023. In summary, this said:

- Its regulatory complaints team would investigate his complaint about poor returns for policy holders.
- Mr A's SERPS policy is separate from the WP fund and acts independently in accordance with the stock market, as it explained in its letter of 10 February 2022.
- Mr A had been switched out of the WP fund on his selected retirement date, which automatically happens without adequate notice from the policy holder.
- ReAssure acknowledged it had not fully answered all Mr A's complaint points previously.
- To apologise, ReAssure said it would arrange for £300 to be transferred to Mr A's bank account.

One of our Investigators reviewed Mr A's complaint. In summary, the Investigator said:

- ReAssure had explained how it calculates bonus rates and why the value of its WP policies is not directly linked to stock market performance. There was no evidence to show the annual or final bonuses were guaranteed. There was no evidence the regulator had any concerns about how ReAssure manages its WP funds.
- Mr A referred his concerns about any benefits removed from the WP fund in 2015 too late. ReAssure did not consent to our Service considering this aspect of Mr A's complaint, and as the delay in referring it was not the result of exceptional circumstances, we do not have the power to consider this complaint point.
- It was ReAssure's commercial decision to decide how it would set out its annual statements so our Investigator could not ask ReAssure to change this. Our Investigator said ReAssure had confirmed Mr A's SERPS policy remained separate.
- ReAssure failed to action Mr A's request that his investments remain unchanged in May 2022. So, ReAssure should complete a redress calculation to determine whether this caused Mr A a financial loss.
- Our Investigator was satisfied £300 fairly recognised the distress and inconvenience its actions caused Mr A.

In response, ReAssure said it placed an instruction for Mr A to remain invested in the WP fund on 12 July 2022. But Mr A provided evidence that suggested he had been switched out

of the WP managed fund, which our Investigator forwarded to ReAssure. ReAssure did not respond, so our Investigator remained of the view ReAssure had provided insufficient evidence to show Mr A had remained within the funds Mr A was invested in prior to his policy's maturity date.

Mr A did not accept our Investigator's opinion, reiterating his previous arguments. Mr A added ReAssure's regulatory complaints team had not written to him. Mr A remained of the view ReAssure had managed his policy poorly. Mr A also added he had allocated a National Insurance rebate to his policy for the 2005 tax-year and wanted ReAssure to look into the matter.

In response, our Investigator explained the 2005 issued had not been referred to ReAssure previously so we could not consider it – Mr A would need to raise a new complaint to ReAssure. And whilst Mr A remained of the view ReAssure handled his complaint poorly, our Investigator explained a complaint about *how* ReAssure handled Mr A's complaint would fall outside of our Service's power to consider.

So, this complaint was referred to me for 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.

I should first clarify the complaint points I have considered as part of this decision. Under a separate complaint reference, another Ombudsman has already considered Mr A's complaint that his PPP was mis-sold. So, I am unable to consider Mr A's complaints about the way his policy was sold to him. I have not considered Mr A's comments to our Investigator that ReAssure did not undertake a reasonable investigation into this matter.

My decision has focused on the remaining complaint points. Mr A has taken a lot of time to explain his complaint in detail. I want to reassure him that I've read everything he has said and thought about all the points that he has raised within his complaint. I have not responded to every point. Instead, I have set out what I consider the key points of Mr A's complaint. I hope that Mr A realises I mean no disrespect by this – this simply reflects the informal nature of our Service.

#### Mr A's complaint about the bonuses applied to his policy

Mr A remains concerned that the bonuses applied have never matched the investment growth the WP fund experienced and notes ReAssure's regulatory team has not written to him. It is disappointing if ReAssure did not write to Mr A as promised. But I am only able to consider ReAssure's actions until the date of its final response, so I cannot comment on any further actions or omissions by ReAssure.

Our Investigator explained ReAssure is required to publish a document called 'Principles and Practices of Financial Management' that explain the level of bonuses it pays depend on the profits made over time. The bonuses are decided upon receiving actuarial advice. Mr A has asked for calculations to show how smoothing was applied to his policy but ReAssure is not obliged to disclose commercially sensitive information, such as how it calculated a bonus in a particular year. I note Mr A has been provided with various documents over the years that explain other factors that determine bonuses, including the costs of running the plan, anticipated future costs and its view of future investment conditions.

I have considered Mr A's concern that the bonuses applied to his policy were not in line with

the investment growth the WP achieved. Mr A's disappointment in the level of bonuses applied to his policy is not, in itself, evidence of any wrongdoing. Bonuses applied to a WP policy do not automatically mirror investment growth, as the fund incurs charges and various other factors affect bonuses, as ReAssure explains in the documents I referred to above. I have seen no evidence to support Mr A's concerns that the bonuses applied to his policy were not calculated correctly or fairly. Like our Investigator, I have seen no evidence to show Mr A was guaranteed bonus rates. And I am not aware the Financial Conduct Authority has any concerns about how ReAssure has managed its pension policies or WP funds. So, I am unable to conclude there is enough evidence to support Mr A's belief ReAssure mismanaged his funds or failed to pay him bonuses guaranteed under the policy.

#### Mr A's complaint about the closing the WP fund to new business in 2015

As our Investigator has explained, there are time limits that apply to this complaint. The relevant rules which outlines when complaints need to be raised are set down by the regulator, the FCA, and can be found in DISP 2.8.2R:

*"The Ombudsman cannot consider a complaint if the complainant refers it to the Financial Ombudsman Service:*

- (1) more than six months after the date on which the respondent sent the complainant its final response, redress determination or summary resolution communication; or*
- (2) more than:*
  - (a) six years after the event complained of; or (if later)*
  - (b) three years from the date on which the complainant became aware (or ought reasonably to have become aware) that he had cause for complaint;*

*unless the complainant referred the complaint to the respondent or to the Ombudsman within that period and has a written acknowledgement or some other record of the complaint having been received;*

*unless:*

- (3) in the view of the Ombudsman, the failure to comply with the time limits in DISP 2.8.2 R or DISP 2.8.7 R was as a result of exceptional circumstances..."*

ReAssure has objected to our Service considering Mr M's complaint about the changes made to his policy in 2015. Mr A has provided the original letter he was sent about the closure of the WP fund to new business in 2015, which is clearly more than six years ago.

I could consider this aspect of Mr A's complaint if I thought he became reasonably aware of his cause to complain within three years of making it. However, Mr A was sent the original letter in 2015. He also retained a 'With Profits Fund Information' factsheet, which says "*as previously advised with effect from 31 January 2015 we decided to close the With Profits fund, which means we will not be accepting any new customers.... We will take into account the assets held by the With Profits und when we calculate our bonus rates in future years, but there will be no one-off windfall payment*". The factsheet went on to say there were a number of factors that determined the bonus applied to the WP fund. So, I am satisfied Mr A was aware of the closure of the WP fund to new customers in 2015 and that there would be no windfall payment.

So, I think his complaint about the way the matter was handled was referred to our Service too late. I do not think there were any exceptional circumstances that prevented Mr A from

referring his complaint sooner than he did. I do not, therefore, think I have the power to consider this aspect of Mr A's complaint.

#### Mr A's statements

I have reviewed Mr A's annual statements, given his concerns his funds were not reported separately from 2021. Mr A's statements for 2020, 2021, 2023 and the January 2022 policy information listed the four funds he was invested in at the time. It went on to list whether a bonus was applicable to the two WP funds Mr A was invested in and the final bonus as at 3 January 2021. Whilst in a different format to previous years, I am satisfied the statements L&G provided reflected the funds Mr A was invested in. There is no evidence to show ReAssure's decision about how to format Mr A's statements has caused him a financial loss at present, and I note ReAssure assured Mr A his SERPS contributions had remained separate. Finally, it is the role of the regulator to oversee how ReAssure conducts its business – I am unable to tell ReAssure how it should present its annual statements. So, I am unable to uphold this aspect of Mr A's complaint.

#### Mr A's fund switches

In February 2022, Mr A was invested in the following funds:

- Unitised-With Profits Pen Gen 2 CAI Pension Accumulator Series 02
- Unitised-With Profits Pen Geb 2 CAI Pension Capital Series 02
- Managed 5 Pension Accumulator (Series 05)
- Managed 5 Pension Capital Series 05

On 5 May 2022, ReAssure wrote to Mr A to tell him he needed to notify it at least ten working days before his policy matured on 1 July 2022. On 26 May 2022, Mr A instructed ReAssure *"not to convert my policy to anything that would result in even lower returns..."*

On 5 July 2022, after his policy matured, Mr A asked ReAssure why his policy had been switched out of two WP funds and was now invested in only the two managed funds.

ReAssure said it raised a task to ensure funds remained invested in Mr A's WP funds, and provided a screenshot to show it was invested in the following funds:

- Unitised-With Profits Pen Gen 2 CAI Pension Accumulator (Series 02)
- Managed 5 Pension Accumulator (Series 05)

Whilst Mr A's instruction to ReAssure on 26 May 2022 was not explicit that it should not switch him out of the WP funds, I think it would have been reasonable for ReAssure to clarify his instructions. On balance, I do not think ReAssure has provided sufficient information to show Mr A's funds were invested as they were prior to his policy maturing. So, if ReAssure has not already done so, I think it should do the following to put things right.

#### **Putting things right**

My aim is to put Mr A back in the position he would have been in had ReAssure not switched his funds. I do not think ReAssure has not provided evidence to show Mr A's funds are now back in this position. So, if Mr A's funds did not remain invested as they were in February 2022, ReAssure should:

- Compare the actual value of Mr A's pension with the notional value of the pension assuming the funds were not switched out of the WP funds.
- If the notional value of the pension is higher than the current value of the pension, then a loss has occurred and redress is payable to Mr A.
- If the current value of the pension is higher than that notional value, then no loss has occurred. Mr A may still want his pension investments amended as if no switches occurred – ReAssure should confirm this with Mr A.
- If a loss has occurred, ReAssure should increase the value of Mr A's pension by the total amount of the compensation. This can be accomplished by remodelling the pension as if the switches out of the WP funds never occurred.
- If a payment into the pension isn't possible or has protection or allowance implications, it should be paid directly to Mr A as a lump sum after making a notional reduction to allow for future income tax that would otherwise have been paid.
- As it appears Mr A has remaining tax-free entitlement, 25% of the loss would be tax-free and 75% would have been taxed according to their likely income tax rate in retirement – presumed to be 20%. So, making a notional reduction of 15% overall from the loss adequately reflects this.

I agree with our Investigator £300 fairly reflects the distress and inconvenience caused to Mr A, recognising the disappointment and time involved in trying to sort out these errors. ReAssure has already said it would arrange a transfer to Mr A's bank account. I make no further award, but if ReAssure has not already paid Mr A the £300 it said would be transferred to Mr A's bank account, it should arrange to pay it now.

### **My final decision**

For the reasons explained above, I uphold this complaint in part and require ReAssure Limited to put things right by doing what I have set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 6 March 2024.

Victoria Blackwood  
**Ombudsman**