**CAS-30329-M6B1**

# Ombudsman's Determination

| | |
|---|---|
| Applicant | Mr N |
| Scheme | FCA Pension Plan (**the Plan**) |
| Respondent | FCA Pension Plan Trustee Limited (**the Trustee**) |

## Outcome

1. I do not uphold Mr N's complaint and no further action is required by the Trustee.

## Complaint summary

2. Mr N has complained that the Trustee did not give him adequate information about the significance of a member's "target retirement date" (**TRD**) in a life-style fund, either at the time when he joined the Plan or subsequently. He contends that if he had been given more information about TRDs and the life-styling process, he may have selected a different TRD and/or investment strategy rather than remaining in the default fund.

3. Mr N also complains that the Trustee has refused to provide him with details of the fund value which would now have been available to him in the Plan if his investments had remained mainly in equities instead of lower risk fixed interest and cash-based assets.

## Background information, including submissions from the parties

4. Mr N joined the defined contribution section of the Plan in December 2013 and transferred in funds from another pension arrangement. As he did not select an investment option for his contributions, these were invested in a default "annuity life-style" investment strategy.

5. Mr N received a Plan booklet which said that:

   "We must set a target retirement age (**TRA**) when we first invest your contributions…We will set your TRA so that it is the same as your State Pension Age (**SPA**) at the time you join the Plan. You can change this if you want to.

> The TRA is used to determine the point at which you move from the "growth stage" …to the "preparing for retirement" stage. It is sensible to check this from time to time to make sure that it is the date at which you expect to take your benefits and change it if you need to.
>
> You can change your TRA via the online facility…Please remember that, if you are in the "preparing for retirement" stage (i.e. the final seven or five years), a change to your TRA may mean that significant changes to your investments are required. These changes will be made automatically."

6. Mr N did not choose a TRD in the Plan. The default TRD was his State Pension Date (**SPD**), his 66th birthday on 9th May 2021, until he changed it in November 2014 to his 65th birthday, 9th May 2020.

7. In August 2015, Mr N asked the Trustee for information on how his Plan contributions had been invested and received details of the default investment strategy.

8. Following the introduction of the money purchase flexibilities in April 2015, which gave members greater choice about what to do with their funds on retirement, the Trustee changed the default investment strategy in 2017. All new joiners and existing active members of the Plan more than three years from their TRDs were moved to a "drawdown life-style" investment strategy.

9. The Trustee wrote to all the affected members of the Plan in order to:

- explain the new investment options available to them; and
- invite them to pension workshops where the importance of the TRD in a life-styling approach and the new investment strategies would be discussed.

10. The Trustee informed Mr N of his current TRD in a letter sent in March 2017 which also said that:

> "It is important that you check the date on which you are planning to use your savings. If you are not intending to take them at that time, you can change the date. At the workshops we will explain why the date you choose is important and what you need to do to change it."

11. The Trustee notified Mr N that he would remain in the existing default "annuity life-style" fund as he was less than three years from his TRD and therefore in the "preparing for retirement" phase of the life-styling process.

12. In September 2018, Mr N enquired about the performance of the investments held in the Plan for him.

13. The Trustee replied on 10 October 2018 as follows:

> "…regarding fund performance, below is a chart which shows the performance of the three funds you are invested in over the period to which your statement relates. As you can see, the Plan Accumulation Fund produced a positive

return in the region of 5% and the Cash Fund a very small positive return. The BlackRock Aquila Over 15 Years UK Gilt Index Fund provided a negative return of just under 1.5% over the period…

You are in the annuity life-style strategy and as you are nearing your TRD, the majority of your funds are held in the BlackRock Aquila Over 15 Years UK Gilt Index Fund…However, the annuity strategy is designed to help align your savings to annuity rates, i.e. a downturn in gilt prices is usually accompanied by a downturn in annuity rates…"

14. In an e-mail dated 26 October 2018, the Trustee also explained that:

"…in a life-style strategy, whilst the performance of a fund is not affected by your TRD…the mix of investment funds your savings are invested in is.

Over the seven years to your TRD, the strategy changes your investment mix so that by the time you reach that date, the majority of your savings, 75% will be invested in the BlackRock [Aquila] Over 15 Years UK Gilt Index Fund with the remaining 25% invested in the BlackRock DC Cash Fund…The changes are made very gradually each quarter. This helps to reduce risk…"

15. Mr N asked about the possibility of changing his TRD so that half of fund remained invested in equities and the Trustee informed him on 2 November 2018 that:

"Before you make any changes to either your TRD or your investment strategy, please ensure you are aware of what this will mean to your investments. If you remain in a life-style strategy and change your TRD to a date in the future, you will sell down some/all of your gilt/cash holdings and switch your funds into the Plan Accumulation Fund which is made up of more volatile elements. The actual investment mix will depend on the number of years and months between now and your chosen TRD. As previously mentioned, full details of the life-style strategies and investment mix at the various ages from your TRD can be found on the Plan website…

We would strongly urge you to seek independent financial advice before taking any action in relation to your investment decisions…"

16. Mr N replied on the same day as follows:

"I don't think I was told when I started here that a TRD would have such a big influence on my pension…

I thought it was just an admin thing "You have to pick a date, so pick a date."

I think the potential effects should have been more prominent.

If I didn't have my current TRD (and wasn't in gilts etc) by how much would my pot have grown in recent years?"

17. After several further exchanges of e-mails, Mr N sent an e-mail on 2 January 2019 which said that:

> “I am dismayed that you are refusing to answer my question re the value of my fund if a different TRD and/or investment strategy had been selected.
>
> …I don’t think that the information I was given in August 2015 was clear enough about the effects a TRD would have on fund growth…”

18. He added in his e-mail dated 16 January 2019 to the Trustee that:

> “The reason I wanted to know the value of my fund if a different TRD and/or investment strategy had been selected was to establish whether or not it was worth taking the issue further. Even a 1% change in a fund the size of mine is a difference of around £6,000.”

19. Mr N made a complaint under the Plan’s Internal Dispute Resolution Procedure (**IDRP**) which was not upheld by the Trustee.

**Mr N’s position**

20. Mr N says that:

> “I asked FCA what my fund would have been worth, if left in the default strategy, so that I could form a judgement on whether I should switch back to that or not.
>
> It may be that the switch to cash was to my benefit and worth sticking with.
>
> But if FCA won't give me the basic numbers to clarify that how can I know?”
>
> …
>
> “…FCA is saying it informed me about TRD and its effects.
>
> I think it has tried to show it did this, but I'd say that if it did, it did it too passively.
>
> General guidance is insufficient, when talking about large sums of money.
>
> FCA should've sent an email to me informing me that as my TRD was X, it would be moving me from the default investment strategy that I was currently in, to a safer 'cash' strategy.
>
> It should have then gone on to inform me about the performance of each strategy over the last five years. I could then have made an informed decision about my pension fund.
>
> FCA didn't give me that information and therefore I wasn't able to make an informed decision. (I know it couldn't give me advice, but I can't see why it couldn't give me information).

What is even worse, is that even now FCA won't provide that information, so I am not able to form a judgement on whether I have lost money or not, as a result of the unilateral decision to move my fund.

I find this opaqueness unacceptable - what happens to my pension should be very transparent to me.

I think an observer could be forgiven for asking - if the regulator of the financial services industry isn't role modelling a high standard for that industry, how can we expect an end to the long list of scandals? As a 'victim' of the Equitable Life scandal (and two further scandals) I am especially sensitive about how my pension is managed."

**The Trustee's position**

21. It has provided Mr N with details about TRDs and the life-styling process on numerous occasions over the years by means of the Plan booklet, annual benefit statements, various letters and the Plan website. The information provided included an explanation of how TRDs interact with the Plan's "life-styling" investment strategy.

22. It has met the standard expected of a trustee for providing Mr N with this information.

23. Mr N altered his TRD. He was therefore aware of his TRD and how to change it.

24. The information about the life-styling process which Mr N received specifically mentioned the gradual shift from return-seeking assets such as equities to fixed interest assets and cash during the "preparing for retirement" phase of the life-styling strategy and explained how this phase was linked to the TRD. If Mr N did not want his investment to follow the life-styling pathway or wanted the "preparing for retirement" phase to begin at a different date, it had been open to him to change his investment strategy or TRD at any time.

25. Mr N raised a query about the life-styling process in August 2015 and received an explanation on how it operates as a member approaches his/her TRD.

26. Mr N was given a lot of information about the life-styling process. In particular, the Plan booklet states that:

"When you join, we will invest all contributions paid into your member's account in the Pension Funding Programme (**PFP)** automatically, which is a "life-style" investment strategy. We will assume that you will take your pension at the SPA that applies to you at the time you join.

But you do have a choice and instead of investing in the PFP you can invest in one or more of the funds available under the free-style investment option.

The PFP is a simple, fixed investment strategy. Its aim is to deal with the main risks that members face when saving for their pension by investing their contributions in suitable investments. It has two stages:

**Growth:** the aim of the growth stage is to invest your contributions in funds that give you the best chance or returns that are greater than the rate of inflation but without exposing you to unacceptable levels of investment risk.

**Preparing for retirement:** the aim of the preparing for retirement stage is to manage the volatility of your investments and to get you ready to take your tax-free cash sum and to buy your pension.

The PFP assumes you should invest for growth when you are far from retirement. This means investing mainly in stocks and shares. Once you are within seven years of your TRA, your investments are automatically and gradually switched away from shares into lower risk fixed interest and cash-based assets. This helps to reduce the uncertainty about your final member's account value…"

…

"As mentioned above the strategy that applies to the "preparing for retirement stage" has been designed on the assumption that you will purchase an annuity at retirement.

This may not suit all members including, for example, those members intending to use income withdrawal. Those members may opt to switch to the PFP's alternative "preparing for retirement" strategy…"

27. It provided Mr N with summaries of each of the "free-style" investment funds and further information was available on the Plan's website.

28. The March 2017 letter inviting Plan members to the pension workshops said that:

"To allow people to manage their savings in a way that is broadly suitable for how they plan to use them, we are introducing a new range of ready-made investment strategies. These three new investment approaches will be known as:

**Annuity strategy:** Designed for people who are planning to use their pension savings to take a cash lump sum and to buy a lifetime annuity to provide a guaranteed pension income.

**Lump sum strategy:** Designed for those who are planning to take the whole of their pension savings as a single lump sum.

**Drawdown strategy:** Designed for those who are planning to use their pension savings to take a series of cash withdrawals, whilst leaving the balance of savings invested.

You do not have to make any changes to the way your pension savings are invested – but you can use one of the ready-made strategies if you prefer."

29. Members were provided with information about their existing investment strategies at the pension workshops. Details of the three new investment strategies and a step-by-step guide on how a member could find details of his/her existing investment strategy were available on the Plan's website.

30. Its role is to put in place a range of investment strategies from which members can choose and to also establish a default investment strategy and a default TRD for those who do not wish to choose. Mr N could have changed his investment strategy or TRD at any time.

31. A wide range of alternative TRD or investment strategies could hypothetically have been chosen by Mr N at any time since he joined the Plan. The consequences of each such combination of choices would vary accordingly. It is not the proper role of the Trustee to inform Mr N what the value of his Plan funds might have been in such purely hypothetical scenarios.

32. Even if the value of Mr N's Plan fund might have been higher given a specific set of hypothetical assumptions regarding TRD and investment strategy, this would not, by itself, demonstrate any shortcomings in the investment strategy applicable to Mr N. The return produced by an investment strategy over a given time period is only a meaningful figure when assessed in conjunction with the level of risk associated with it. A high-risk investment strategy could produce high returns but could only do so by taking an inappropriately high level of risk.

33. The risk level and volatility of an investment is a particularly relevant consideration for members who are approaching retirement and therefore likely to be adversely affected by high levels of volatility in their retirement funds at the time when they seek to access them. Life-styling strategies seek to reflect this expected change in risk tolerance by gradually shifting members' investments towards less volatile assets as they approach their TRD.

## Adjudicator's Opinion

34. Mr N's complaint was considered by one of our Adjudicators who concluded that no further action was required by the Trustee. The Adjudicator's findings are summarised below.

35. It would have been sensible for Mr N to have sought independent financial advice if he needed any further explanation on the information about the Plan available to him in order to make an informed choice before deciding to join the Plan in December 2013. It had also been open to him to alternatively seek free and impartial advice from Pension Wise before doing so if he did not wish to seek financial advice from an IFA because of his unhappy experiences dealing with IFAs in the past.

36. Information about Pensions Wise, the Government's pension guidance service which helps people understand their options at retirement, should have been shown in the Plan documentation available to Mr N such as his annual benefit statements.

37. It might have been useful had the Trustee offered Mr N some sort of online tool to enable him to experiment with different hypothetical retirement scenarios and see the potential income available. However, there is no legal obligation on the Trustee to do this. In law, there is no general duty to provide information or advice to prevent economic loss. However, where advice is given it must be done competently.

38. Should the Trustee decide to offer such a facility in the future, the figures shown on the projections generated would, in any case, not be guaranteed and would only be intended as a guide to what his pension fund could provide. What happens in the future is likely to be different to what has been assumed and the value of an investment may go down as well as up.

39. As Mr N is invested in a "life-style profile", it automatically moves his investment into lower risk funds as he approaches his selected TRD. It is an investment option that aims to provide growth over the long term, whilst reducing the amount of investment risk that his pension fund is exposed to as he nears his selected TRD. His payments initially go into one or more funds that are typically invested in a mix of assets, including shares. On each anniversary, the portfolio of his investments in the Plan is rebalanced into the correct proportions of each fund in accordance with his chosen "life-style profile", an approach which would appear to have protected him from a significant decrease to the Plan fund value during the coronavirus pandemic.

40. The range of information supplied by the Trustee over the years was adequate to assist Mr N in planning his own finances and seek personal financial advice, if required.

41. Mr N did not accept the Adjudicator's Opinion and the complaint was passed to me to consider. Mr N provided his further comments which do not change the outcome. I agree with the Adjudicator's Opinion and note the additional points made by Mr N.

## Ombudsman's decision

42. I agree with the view of the Adjudicator, that Mr N was given more than enough information about TRDs and the life-styling process during his membership of the Plan which explained clearly how the life-styling investment strategy works and how TRDs interact with it. This enabled Mr N to take appropriate advice or guidance at any time and, particularly, before becoming a member of the Plan if he was at all unsure about how these options worked, in order to make an informed choice.

43. I also concur with the Trustee that its duties and responsibilities do not include informing Mr N what the value of his Plan fund would be if he had made different investment decisions.

44. Furthermore, if the Trustee had provided Mr N with such values based on different TRDs and/or investment strategies, this information would not be intended as financial advice or to be used in comparing merits of different forms of pension planning. These figures could only have been used to help Mr N identify whether he

needed to seek further advice and information before deciding how best to invest his contributions in the Plan.

45. As the information provided by the Trustee was adequate for Mr N to seek independent financial advice or guidance at any time in order to make an informed choice on his investments in the Plan, in my view, there has been no maladministration on the Trustee's part.

46. No further action is required from Trustee and, in particular, it is unnecessary for the Trustee to now calculate what the Plan fund value available to Mr N would have been if he had selected a different TRD and/or investment strategy which would have resulted in his investments remaining predominantly in equities.

47. I do not uphold Mr N's complaint.

**Anthony Arter**

Pensions Ombudsman

20 July 2020