

Ombudsman's Determination

Applicant	Mrs R
Scheme	The Standard Life Active Money Self Invested Personal Pension (the SIPP)
Respondent	Standard Life Assurance Limited (Standard Life)

Outcome

1. I do not uphold Mrs R's complaint and no further action is required by Standard Life.
2. My reasons for reaching this decision are explained in more detail below.

Complaint summary

3. Mrs R complained that her pension contributions were mismanaged by Standard Life. She asked Standard Life to return the pension contributions she has made and provide redress for the investment loss her she considers her funds have suffered.
4. In making her complaint, Mrs R learned that Standard Life incorrectly set up the SIPP for her, instead of an Active Money Personal Pension (**AMPP**), which she is unhappy about. She is also concerned that Standard Life did not correctly set up her husband as a beneficiary for death benefits from her policy.

Background information, including submissions from the parties

5. On 10 November 2015, Mrs R called Standard Life to enquire about setting up a pension policy. Standard Life has said that its process is to discuss and record the individual's circumstances, then inform the individual of all the available options, including any risk warnings.
6. The phone call on 10 November 2015 lasted around 45 minutes. The main comments made were:-
 - Mrs R told Standard Life that her accountant had recommended a Standard Life AMPP and that she wanted to make regular contributions.
 - Standard Life asked Mrs R if she had received financial advice from a regulated adviser.

- Mrs R said she trusted her accountant as he was aware of her circumstances.
 - Standard Life informed Mrs R that it also provided a Stakeholder pension policy, but Mrs R insisted that she did not want a Stakeholder policy.
 - Mrs R indicated that she did not know what funds to invest her contributions in. Standard Life informed Mrs R that it had a 'MyFolio' Managed fund, where the member selects their risk level and the fund is then managed by an investment manager in line with that risk level.
 - Standard Life informed Mrs R several times that it did not provide financial advice, and that, if she was unsure of anything, she should seek advice from a regulated adviser.
 - Standard Life confirmed it would send Mrs R its application form for the AMPP.
7. On 8 December 2016, Mrs R called Standard Life requesting a new application form. She said had been too busy to complete the form any sooner and had then made an error on the form. Standard Life explained to Mrs R that, as it had been more than six months since she last called, it was necessary for Standard Life to go through her financial circumstances again, to make sure she still had had the correct information and warnings. Mrs R was unhappy with this, and asked Standard Life to just issue new forms, as her accountant was helping her, but Standard Life told her it was a required step. This phone call lasted around 37 minutes. The main points discussed were:-
- Standard Life asked Mrs R if she wanted a financial adviser to help her with starting a pension policy, but Mrs R reiterated that she was following the recommendations of her accountant.
 - Standard Life said that this did not seem like regulated advice, to which Mrs R agreed that the advice was 'unofficial', but she was happy to liaise with Standard Life herself.
 - Standard Life wrote in its call note that it read out its standard warnings for individuals proceeding without financial advice.
 - Standard Life asked questions about Mrs R's financial circumstances, after which Mrs R confirmed that she wanted to open an AMPP, as recommended by her accountant.
 - Standard Life asked Mrs R whether she wanted to choose her own investments, or if she wanted to use the MyFolio profile.
 - Mrs R confirmed that her accountant had recommended the MyFolio fund and that he had told her to select high risk to begin with, until she reached age 52, when she would change to medium risk, until age 55, when she would change to low risk. Mrs R was age 43 at the time of this phone call.

- Standard Life read out the descriptions to Mrs R for risk level 4 and risk level 5. Mrs R confirmed she wanted to select level 4. Standard Life asked Mrs R if she would like to hear the description for risk level 3, but Mrs R declined.
 - Standard Life informed Mrs R that there was no investment guarantee, which meant that her money could go up and down in value. Mrs R confirmed she was happy with her risk selection.
 - Standard Life confirmed that, based on Mrs R's stated risk level, she was selecting the 'Standard Life MyFolio Managed IV' fund. Standard Life confirmed that the annual fund charge was 1.46% and that Mrs R could change the fund selection at any time.
 - Standard Life confirmed that it would send Mrs R its Key Features document and information about investment risks and her cancellation rights.
8. On 1 July 2017, Mrs R completed the Standard Life application form for an AMPP. Mrs R stated that she was employed and that her employer would contribute a single contribution of £300, as well as a regular contribution of £300 per month to the AMPP, from 1 August 2017. Mrs R was in fact self-employed and her company was to make the contributions on her behalf.
9. On 12 July 2017, Standard Life wrote to Mrs R with confirmation of her plan details. This letter referred to her plan as an Active Money Self Invested Personal Pension. The confirmation stated that Mrs R's policy was 100% invested in the Standard Life MyFolio Managed IV fund.
10. On 23 February 2018, Mrs R called Standard Life to express her concern about the low investment return on her monthly contributions of £300. She said that, based on an illustration she had previously received, she was expecting higher investment returns. Standard Life suggested to Mrs R that she consult with a financial adviser, who could advise her on what funds her policy should be invested in. During this phone call, the Standard Life representative referred to Mrs R's policy as the SIPP, but neither party picked up on the discrepancy.
11. On 15 March 2018, Mrs R called Standard Life. The main points discussed were:-
- Mrs R said that her pension contributions were not making enough of an investment return, and that her new accountant was surprised at the figures.
 - Mrs R told Standard Life that she had consulted with the Citizens Advice Bureau, who told her that she should be able to receive a refund of contributions as she had taken out the policy less than a year ago.
 - Standard Life informed her that its cooling off period was 30 days, within which Mrs R could have cancelled the policy.
 - Standard Life told Mrs R that she had the right to transfer her benefits to another provider, which would incur no transfer fee.

- Standard Life told Mrs R that investments can go up and down, and that a pension is not a savings account.
 - Mrs R told Standard Life that it had recommended the pension to her.
 - Mrs R told Standard Life that she did not really know what she was doing, so followed the recommendations of her accountant, who had since passed away. She said her new accountant had a pension with a different provider, which was invested in a medium to high risk portfolio, but his fund value had increased by 10%.
 - Her new accountant had told her that the charges on her Standard Life policy were 3%, but Standard Life confirmed in this phone call that the annual charge on her plan at that time was 1.425%, which was the fund charge.
 - Standard Life confirmed that Mrs R's funds were invested in a medium to high risk portfolio.
 - Mrs R confirmed that she would leave her investment selection as it was, but change her retirement age to 65.
 - Standard Life reminded Mrs R that she could change her investments at any time, or move to a different product with Standard Life, or transfer to a different provider.
12. On 8 August 2019, Mrs R had two phone calls with Standard Life as she remained unhappy with the investment growth on her pension contributions.
13. A summary of the main comments made during the first call is as follows:-
- Mrs R said that she had reduced her monthly contribution amount to £200 and had been paying the difference, of £100, to an ISA, and that the ISA had performed better than her pension.
 - She said her new accountant had told her that there was a 'problem' with the investment return on her pension.
 - Standard Life told Mrs R that, if she was unhappy with the performance, either she or an appointed regulated financial adviser could change the investment selection.
 - Mrs R asked Standard Life which of its funds were performing well and had lower investment charges.
 - Standard Life told Mrs R that she should direct these questions to a financial adviser, who could help her make an informed decision about her investments.
 - Mrs R continued to ask Standard Life what funds were performing well, and if charges were lower with a 'Government Stakeholder' plan.

- Standard Life said that it had a Stakeholder plan, but this was not linked to the Government.
- Standard Life repeated that it could not offer financial advice, but that Mrs R could go to the Standard Life website to find more information on the different funds it offered.
- The Standard Life representative was unsure about the transfer process from the SIPP to a Stakeholder plan, so passed the call to a colleague.

14. The relevant comments made in this second phone call were:-

- Mrs R told the second Standard Life representative that she did not know how her policy had been invested in the MyFolio IV fund.
- Mrs R said that she had called a 'pension advice line' and was informed that she should not be paying more than 1% in fees. Mrs R again expressed her concern that her fund was charging 1.411% in fees but that it was not performing well.
- Standard Life told Mrs R that she could change the investment selection, change to a different product with Standard Life, or transfer to another provider.
- Standard Life told Mrs R that it provided a non-advice service, so any investment choice was her own, unless she used a financial adviser.
- Mrs R said she was finding it hard to move her investment to a better performing fund and was concerned that the pension may have been mis-sold to her.
- Mrs R asked how she could transfer to a different provider that was 'making some money' and how much money she would lose if she did so.
- Standard Life confirmed there was no transfer out charge.
- Standard Life said it could assist Mrs R with transferring from the SIPP to its Stakeholder plan, if that was what she wanted to do.
- Mrs R said she could not get a straight answer to her question. She wanted Standard Life to tell her which of its funds were making money.
- Standard Life said that some investments were growing, but that they can also go down in value. It said Mrs R could find past performance indicators for each fund on its website.
- Mrs R said she did not know how she ended up with the SIPP.
- Mrs R also said she had wanted to add her husband as a beneficiary, so completed the nomination form for the AMPP. She said she was concerned that Standard Life had not set up her husband as a beneficiary of the SIPP, so was worried that her money would 'die with her'. Standard Life told her that this wouldn't necessarily happen if there was no nominated beneficiary.

- Mrs R said that after two years she was unhappy with the overall investment performance. Mrs R asked for her money back, but Standard Life informed her she could not access her pension benefits until age 55.
 - Mrs R said she would contact other providers to see if she could get a 'Government Stakeholder' elsewhere. Standard Life reminded Mrs R that the Stakeholder plan is not linked to the Government.
 - Mrs R said she might need to get a financial adviser involved, but had hoped she wouldn't have to do so because of the expense. Mrs R told Standard Life that it should be able to answer questions about its own funds.
 - Standard Life said that none of their funds provided guarantees for investment performance.
 - Standard Life said it offered three pension products, the Stakeholder plan, the AMPP and the SIPP. Mrs R repeated that she did not know how she ended up in the SIPP. Standard Life said it would look into the matter. Mrs R said she wasn't sure it was worth Standard Life looking into it if she was going to transfer out.
 - Mrs R continued to express her concern that her questions were not being answered. She said she wanted to know what funds were making money, but that Standard Life was not giving her a straightforward answer.
 - Standard Life repeated that it could not offer guarantees on any of its funds. Mrs R said she was not looking for a guarantee, just a fund that had made money in the last year.
 - Standard Life said that, although the MyFolio IV fund itself is managed by a fund manager, it was her responsibility, or her adviser's, to make sure the fund was right for her. It reaffirmed that Standard Life would not make fund selections for a member.
 - Standard Life said it would be appropriate to raise a formal complaint so that it could investigate Mrs R's concerns about the information it had given to her.
15. On 4 September 2019, Standard Life emailed Mrs R in response to her complaint. Standard Life stated that, after reviewing all the phone calls with her, it did not uphold her complaint. In summary its response was:-
- Standard Life had made it clear that it could not provide financial advice.
 - Standard Life had encouraged Mrs R to seek regulated financial advice, but Mrs R had said she trusted the recommendations of her accountant.
 - Standard Life had provided information about the products available to Mrs R, one of which was the AMPP, which she said she wanted to select.

- Standard Life had also discussed the Stakeholder plan with Mrs R, but she had told Standard Life she did not want that product.
 - Standard Life had provided information about the funds that were available through the AMPP, which included the MyFolio fund range, where the member chooses a risk level then the fund choices are managed accordingly.
 - Having considered the descriptions of the risk levels, Mrs R had confirmed she wished to proceed with a risk level 4, which aligned with the MyFolio IV Managed fund. Standard Life had confirmed the fund charge for this at that time was 1.46%.
 - Standard Life had told Mrs R she could change her fund selection at any time.
 - Standard Life had confirmed that all investments can go up as well as down, and that it could not guarantee investment growth.
 - Standard Life could not monitor or change a member's funds, but the member, or their authorised financial adviser, could do this online.
 - While investigating the complaint, Standard Life recognised that Mrs R had applied for an AMPP, but it had incorrectly set up the SIPP.
 - Standard Life apologised for this error, but informed Mrs R that there were no additional charges for the SIPP. It told Mrs R that the only difference for her was that she had a wider range of funds to invest in with the SIPP.
 - Standard Life offered to change the SIPP to the AMPP, if this was what Mrs R wanted to do.
 - Standard Life said it had no record of receiving Mrs R's completed nomination form, but that she could add her husband as a beneficiary to her current plan, either online or by completing the form she had previously referred to. Standard Life said it could send a new form to her if required.
16. On 6 September 2019, Mrs R responded to say she did not agree with the response. In summary, she said:-
- Her pension contributions had been placed into the wrong fund.
 - She chose the AMPP, not the SIPP.
 - Standard Life should have addressed her concerns about the investment performance when she first reduced her contributions.
 - She had requested that her husband be set up as a beneficiary when she applied for the AMPP, but this had not happened.

17. On 9 September 2019, Standard Life emailed Mrs R. It said:

“I’m sorry that we opened a SIPP instead of an AMPP. This was down to an administration error. We take complaints very seriously and feedback has been provided to the person involved and their line manager.

We can update your product type to an Active Money Personal Pension if you wish to do this. As this isn’t the level of service you should expect from us, I’m happy to make you a compensation payment of £100 for this error.

I can confirm that your plan value would be in exactly the same position regardless if it was held under the SIPP or the AMPP, the value and performance is determined by the investment held in the pension product, not by the product itself.”

18. Unhappy with this response, Mrs R asked my Office to investigate her complaint.

Adjudicator’s Opinion

19. Mrs R’s complaint was considered by one of our Adjudicators, who concluded that no further action was required by Standard Life. The Adjudicator’s findings are summarised below:-

- Mrs R had misunderstood that the product type impacted the investment growth.
- A policyholder pays contributions into the pension policy, within which they can invest their contributions into a variety of investments funds.
- The evidence showed that Mrs R selected the MyFolio IV fund, which she could have invested in through the SIPP or the AMPP.
- Standard Life had made an error with the product type, but there was no product charge for either the SIPP or the AMPP, just a fund charge for the MyFolio IV fund. This means Mrs R has not suffered a financial loss.
- Standard Life cannot provide financial advice, which it told Mrs R on many occasions, and recommended she seek such advice from a regulated financial adviser.
- Mrs R approached Standard Life on the recommendation of her accountant and was firm that she wanted to select the AMPP.
- Mrs R has said that she did not make the investment selection, but the evidence shows that she did.
- Mrs R is ultimately unhappy with the investment performance, but only she, or an appointed financial adviser, can change the investment fund. Standard Life correctly informed her on several occasions that it could not do this for her.

- Mrs R was upset that her husband had not been set up as a beneficiary on her policy, but Standard Life has told her that she can set this up online or it can send a new form for her to complete. While it is not clear if an original completed form was overlooked by Standard Life, this has not caused a financial loss, and Mrs R can easily rectify this concern if she wishes to do so.
 - Standard Life had offered Mrs R an award of £100 as an apology for setting up the wrong product type. The Adjudicator found this to be reasonable, as the error had not caused a financial loss, so had not been to Mrs R's material detriment.
20. Mrs R did not accept the Adjudicator's Opinion and the complaint was passed to me to consider. I agree with the Adjudicator's Opinion and note the additional points raised by Mrs R.

Summary of Mrs R's additional points

21. Standard Life has admitted it made an error, but she does not feel this has been appropriately recognised.
22. The error has caused Mrs R stress which led to a flare up of a pre-existing health issue which required some hospital visits.
23. She has suffered a financial loss through a loss of earnings, making phone calls, making photocopies and paying for postage and hospital parking.
24. The Deputy Pensions Ombudsman made an award on a similar complaint (case reference PO-19153). Mrs R believes that the complaint she has referred to shows that Standard Life was found to be deliberately misleading, in the same manner she believes it has misled her.

Ombudsman's decision

25. Mrs R originally complained that Standard Life mismanaged her pension contributions, as she did not think the investment growth of the MyFolio fund was high enough in the first year. During her complaint about this, it was discovered that the SIPP was set up instead of the intended AMPP. Mrs R now believes that this administrative error has caused what she perceives to be low investment growth.
26. Standard Life cannot influence or predict the growth of the stock markets, nor can any pension scheme administrator. The evidence shows that Mrs R made the decision that she wanted to invest in a managed fund, and selected her own risk category, which corresponded to the MyFolio IV Managed fund. Mrs R's claim that she did not select the fund is not supported by the evidence.
27. I am satisfied that Standard Life gave Mrs R the correct information on the different risk categories and made frequent recommendations that she seek financial advice. Standard Life is not authorised to give financial advice, and at no point did it do so. When Mrs R first expressed dissatisfaction with the performance of the fund,

Standard Life correctly informed her that she could change the fund selection, but that it could not do this for her.

28. The administrative error was recognised during Mrs R's complaint about the fund performance. Standard Life has confirmed that there was no product fee for the SIPP or the AMPP. This means that Mrs R's fund has not been charged any additional amounts because of the error. The same fund was available through both products, so the fund charge has been the same as if the AMPP had been correctly set up.
29. Standard Life has told Mrs R on more than one occasion that she can assign her husband as a beneficiary and change her policy to the AMPP, but she has not done so. It has also informed her that, if she is not happy with the fund performance, she can switch funds or transfer her policy to another provider. Standard Life cannot take any of these actions for her. Mrs R must take responsibility for mitigating her outstanding issues with Standard Life and her current fund selection.
30. There has been no financial loss caused by Standard Life's administrative error. Mrs R has argued that Standard Life has caused her stress, to the point that she has been hospitalised. While I do not doubt that a flare up in her pre-existing condition was stressful, I do not find that Standard Life's error was the cause of this. Standard Life made a mistake, but as soon as it recognised this, it took steps to assist Mrs R in rectifying it. Mrs R's primary concerns were with the performance of the fund, which is not a consequence of the administrative error.
31. Standard Life has made an offer of £100 to recognise the distress and inconvenience caused by its error, which I find reasonable, so I make no further award.
32. Mrs R has referred to another complaint determined by the Deputy Pensions Ombudsman. In that case, the Applicant was a member of the Standard Life Staff Pension Scheme. Standard Life was not the administrator. The actual administrator caused a delay in transferring out a portion of the Applicant's defined benefits to a personal pension policy. The award was made because the Applicant suffered a financial loss. The benefits should have been transferred to the personal pension sooner, so the Applicant lost investment growth. The issues involved are not the same as those in Mrs R's complaint so the two cases cannot be compared.
33. I do not uphold Mrs R's complaint.

Anthony Arter

Pensions Ombudsman
21 August 2020