

Ombudsman's Determination

Applicant Mr S

Scheme GKN Group Pension Scheme 2012 (No. 3) (**the Scheme**)

Respondents Legal & General Group PLC (**L&G**);
Mercer;
The Trustee of the Scheme (**the Trustee**)

Outcome

1. I do not uphold Mr S' complaint and no action is required by L&G, Mercer, or the Trustee.

Complaint summary

Mr S' complaint concerns the delays he experienced in switching his investments in the Scheme. He says:-

- An error on the L&G online platform (**the Platform**) led to delays in switching his investments in the Scheme.
- As a result of the delay, he has suffered a financial loss in the value of his investments.
- He is not satisfied with the handling of his complaint.

Background information. Including submissions from the parties

2. The sequence of events is not in dispute so I have only set out the salient points. I acknowledge there were other exchanges of information between all the parties.
3. L&G Administer the Defined Contribution (**DC**) section of the Scheme and Mercer Administer the Defined Benefit (**DB**) section of the Scheme. Mercer is also responsible for managing complaints under the Scheme's Internal Dispute Resolution Procedure (**IDRP**).
4. In 2020, L&G confirmed that a number of its property funds were suspended due to the COVID-19 pandemic and liquidity issues.

5. On 25 September 2020, L&G sent a letter to Mr S which confirmed that, from 1 October 2020, the L&G Property Fund would no longer be suspended.
6. The L&G letter dated 25 September 2020 was received by Mr S on 3 October 2020. He logged onto the Platform and attempted to switch his investment. However, he encountered an error message which said it was still suspended so he was unable to make the switch. Mr S subsequently contacted L&G about the error, L&G confirmed that it was aware of the issue.
7. On 7 October 2020, L&G contacted Mr S and confirmed that the error had been resolved.
8. On 9 October 2020, Mr S placed an investment switch instruction asking to move from the L&G Property Fund to the GKN Cash Fund. The standard completion time for this type of request was three days.
9. On 12 October 2020, Mr S raised a complaint with L&G regarding the delays he experienced when switching investments.
10. On 13 October 2020, the switch completed. Mr S received the unit prices of that date which valued the investment at £16,585.78.
11. On 23 October 2020, L&G provided its final response to Mr S. It did not uphold his complaint but did offer £50 for the trouble and upset caused.
12. On the same day, Mr S responded to L&G and said he did not accept the £50 offer. He also asked for “a deadlock letter” to take the complaint to The Pensions Ombudsman (**TPO**).
13. On 25 November 2020, Mr S raised a complaint with Mercer.
14. On 30 November 2020, Mercer received confirmation from L&G that stated it had passed the information onto its complaints team for investigation.
15. On 25 February 2021, Mr S called Mercer as he had not received a response to his complaint. He said L&G had told him it would be dealt with by Mercer.
16. On 8 April 2021, Mr S contacted Mercer and invoked the Scheme’s IDRP.
17. On 9 April 2021, Mercer sent Mr S a letter which confirmed his complaint would be passed to the Trustee under the IDRP. This letter enclosed a complaint chart which referred to Mercer’s complaint procedure instead of the Trustees.
18. On 19 April 2021, Mercer issued Mr S with IDRP paperwork.
19. On 28 April 2021, Mr S raised a complaint with the Trustee under the IDRP.
20. On 24 May 2021, Mr S called Mercer and said it should follow its complaints process and send him a letter acknowledging his complaint.

21. On 26 May 2021, Mercer sent Mr S a letter regarding his telephone call of 24 May 2021. This confirmed it had issued him with a letter on 4 March 2021, acknowledging his complaint which provided him with all the required information.
22. On 3 June 2021, Mr S submitted an application to The Pensions Ombudsman (**TPO**).
23. On 16 June 2021, the Trustee sent Mr S an IDRPs acknowledgment letter in the post.
24. On 18 June 2021, the Trustee sent Mr S its IDRPs response not upholding his complaint.
25. On 1 April 2022, Mercer offered Mr S £250 in recognition of the delays and for the distress and inconvenience caused. Mr S did not accept the offer.

26. **Summary of Mr S' Position**

- An error on the Platform caused a delay in placing a switch request.
- If he had been able to switch on 2 October 2020, the value of his pension fund would have been £17,769.08.
- As a result of the delay, he suffered a financial loss as the value of his investment dropped and he feels compensation is warranted.

27. **Summary of L&G's Position**

- L&G agreed there was a systems issue. It upheld this aspect of the complaint as the technical issue had prevented Mr S from switching earlier than he would have liked.
- It apologised that Mr S did not receive the letter of 25 September 2020, until 3 October 2020. However, it said delivery times were out of its control.
- It disagreed that Mr S had suffered a financial loss as the unit prices he received was at a higher rate than if he had completed the transfer at an earlier date.
- If Mr S had requested a switch on 1 October 2020, he would have received the unit prices from 5 October 2020, which would have completed on 21 October 2020, with the funds worth £16,572.44.
- If Mr S had requested a switch on 3 October 2020, he would have received the unit prices from 7 October 2020, which switch would have completed on 21 October 2020, with the funds worth £16,571.39.
- Mr S requested a switch on 9 October 2020, so he received the unit prices from 13 October 2020. This meant his pension fund value was £16,585.78 on 21 October 2020. This placed him in a better financial position than if he had transferred at an earlier date.
- The value of Mr S' pension fund was not guaranteed and depended on investment performance, which was out of L&G's control.

28. Summary of the Trustee's Position

- The L&G Property Fund was suspended during the COVID pandemic but reopened on 1 October 2020, so this was the earliest date Mr S could have requested a switch.
- If Mr S had received a letter in advance of 1 October 2020, this is the earliest date he could have placed a switch request.
- The unit prices on 1 October 2020 meant Mr S' fund value would have been £16,572.44.
- As Mr S placed a switch on 9 October 2020, his fund value was £16,585.78 which was higher than if he had placed a switch on the day the suspension was lifted.
- Mr S was provided with a guide to investment booklet by L&G which explained the different types of investments and risks involved. Page 11 of the booklet specified that the Scheme was a DC scheme and gave the following risk warning:-

“The value of investments may fall as well as rise and you may not get back the amount invested”. **(the Risk warning)**
- The markets as a whole fell during this time as a result of the Coronavirus Pandemic. Whilst there were fluctuations in Mr S' fund value, this was down to general market movements. It said there was a risk of funds both increasing and decreasing in value when investing which was outside of its control.

29. Summary of Mercer's position

- It apologised that there were some internal delays which meant the relevant teams did not receive the complaint paperwork in a timely fashion which delayed the IDRPs response.
- It could have been made clearer to Mr S that his complaint was against L&G not Mercer, so it was unable to fully respond.
- It acknowledged that Mr S was directed to raise a complaint to an incorrect address, feedback was provided to the relevant team.
- The Scheme's IDRPs response was sent out within four months of receiving a complaint in line with the IDRPs paperwork.

Caseworker's Opinion

30. Mr S' complaint was considered by one of our Caseworkers who concluded that no further action was required by L&G, Mercer, or the Trustee. The Caseworker's findings are summarised below:-

- L&G accepted there was an error on its Platform which prevented Mr S from switching his investments on 3 October 2020, the day on which he received the letter informing him the L&G property fund was no longer suspended. However, the unit price when the switch occurred put Mr S in a better position than he would otherwise have been had a switch been requested on 3 October 2020, therefore he had not suffered a financial loss.
- As Mr S was a member of a DC pension scheme his pension funds were not guaranteed, so the fund value varied on a daily basis dependant on market conditions. Therefore, the unit price could change in the three days the switch takes to complete. Mr S was aware of these risks as they were detailed in the investment booklet provided by L&G.
- It is not reasonable to suggest that Mr S would have completed the switch on 2 October 2020 as he only became aware that the L&G property fund was no longer suspended when he received the letter on 3 October 2020. This was the earliest opportunity he could have requested a switch had there not been an error on the Platform. It was out of L&G's control when Mr S actually received the letter of 25 September 2020 so that delay did not amount to maladministration.
- Mercer acknowledged there were some delays and miscommunication surrounding the complaint process and apologised to Mr S. He was offered £250 by Mercer and £50 from L&G in recognition of the service provided. Although Mr S had suffered some distress and inconvenience, the level of non-financial injustice was nominal so did not meet the threshold for TPO's minimum award for non-financial injustice.

31. Mr A did not accept the Caseworker's Opinion and the complaint was passed to me to consider. Mr S submitted further comments in response to the Opinion. In summary he said:-

- The dates highlighted in the Opinion were when a switch of investments was not possible due to the error with the Platform. L&G falsely said he would not be better off if he had switched at an earlier date. He said that this was not the case if it were applied to the date of 2 October 2020.

32. I note the additional points made by Mr S, but I agree with the Caseworker's Opinion.

Ombudsman's decision

33. Mr S has complained that an error on the Platform led to delays in switching his investments in the Scheme and as a result, he has suffered a financial loss in the value of his investments. He is also not satisfied with the handling of his complaint.

34. Mr S did not receive Mercer's letter of 25 September 2020 until 3 October 2020. So, it would not have been possible for Mr S to have made a transfer request before this date, as it was only at that point he became aware that the L&G property fund was no

longer suspended. I therefore do not consider that Mr S has suffered a financial loss as the transfer request could not have been made on 2 October 2020.

35. I acknowledge that there was an error on the Platform, and this delayed Mr S' ability to make a switch request on 3 October 2020. The switch was subsequently requested on 9 October 2020 and completed on 13 October 2020. The unit price on the date the switch was completed was higher than when the switch request was originally made so Mr S was able to purchase more units and so is in an equal or better financial position as a result of the delay.
36. In the investment booklet provided by L&G, Mr S was made aware that the Scheme was a DC arrangement. The same investment booklet also confirmed that unit prices in a DC arrangement could fluctuate. Mr S should therefore have been aware that the value of his pension funds was not guaranteed and might vary on a daily basis depending on market conditions. I find that L&G cannot be held liable for any differences in fund values resulting from market fluctuations.
37. I accept that Mr S has suffered some distress and inconvenience in pursuing his complaint. However, I agree with the Caseworker that the degree of non-financial injustice which Mr S has suffered does not reach the threshold for the minimum award of £500. Mr S has already been offered sufficient redress and these offers remain open to him, he should contact L&G and Mercer should he wish to accept their offers.
38. I do not uphold Mr S' complaint and no further action is required by L&G, Mercer, or the Trustee.

Anthony Arter CBE

Deputy Pensions Ombudsman

27 March 2024