Ombudsman's Determination

Applicant	Mr N
Scheme	Electrical Contractors' Association Pension & Life Assurance Scheme (**the Scheme**)
Respondent	The Trustee of the Electrical Contractors' Association Pension & Life Assurance Scheme (**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 complains that his Scheme pension dropped in value between April 2015 to August 2015. Mr N attributes this to failures by the Trustee to adequately protect his pension in the run up to retirement.

Background information, including submissions from the parties

3. The Scheme is a defined contribution (**DC**) pension previously administered by Clerical Medical and then by Friends Life. On 28 February 2014, Mercer (the Trustee's adviser) wrote to the Trustee to provide it with investment-related advice. Mercer said that it offered a range of funds in order for members to better manage their pensions.

4. On 17 March 2014, the Trustee sent all Scheme members a copy of the 'Choosing your own pension funds' booklet (**the Booklet**), together with a covering letter. The Booklet summarised the funds that the Scheme offered and stated that all investments are "not guaranteed and can go up or down." The covering letter also stated that:

   "Members will be invited to choose from a wide range of investment options with Friends Life. These options will be available online and will allow members to see real time information of the fund's performance. If you do not wish to make your own investment choice then you will be automatically enrolled in the pre-selected fund, which offers a balanced view to risk.

5. In July 2014, a bulk transfer of the majority of Scheme members was made from Clerical Medical to Friends Life. Mr N was incorrectly not included in this bulk transfer.

6. On 9 October 2014, Mr N's Scheme entitlement was transferred to Friends Life. Friends Life wrote to Mr N stating that his entitlement was invested in the FL Mercer Target Retirement Pension Fund A 2015 (**the Target Fund**), WEF 8 October 2014.

7. On 5 January 2015, Friends Life wrote to Mr N stating that he would reach his Scheme Normal Retirement Age (**NRA**) in July 2015.

8. On 22 January 2015, Friends Life switched Mr N's Scheme entitlement from the Target Fund to the Mercer Retirement Pension Fund A (**the Retirement Fund**) in advance of his NRA. The Retirement Fund was described as 'low risk' by Friends Life. Mr N's Scheme entitlement was worth £118,240.07 as at that date.

9. On 16 April 2015, Friends Life sent Mr N a transfer value of his Scheme entitlement. It was not guaranteed and stated that his pension was worth £117,105.81 as at that date.

10. On 4 June 2015, 25% of Mr N's Scheme entitlement was transferred into cash to fund his retirement lump sum. The other 75% was switched to the Scheme's new default investment strategy, the Mercer Diversified Retirement Fund (**the Diversified Fund**). The Diversified Fund targeted drawdown and was described by Friends Life as 'medium risk'. Mr N's Scheme entitlement was worth £109,815.93 as at that date.

11. In June 2015, the Trustee sent all members a letter stating that members within 0-5 years of their target retirement date would be transferred to the Diversified Fund. The letter also stated that "if you wish to elect a different investment strategy, you may do so via your online account or by contacting the fund managers directly".

12. On 5 August 2015, Mr N's remaining investments in the Diversified Fund were sold by Friends Life. Mr N's entire Scheme entitlement was held in cash and was worth £108,606.48 as at that date.

13. On 30 May 2016, Mr N complained to the Trustee under the Scheme's internal dispute resolution procedure (**IDRP**). Mr N said that the Trustee's new investment strategy had exposed his pension to excessive risk. Mr N argued that the Trustee had a duty of care to ensure that his pension was protected in advance of his retirement. He also said that the Trustee should pay him £8,499 in compensation for the reduction between April- August 2015.

14. On 16 June 2016, the Trustee provided its Stage 1 IDRP response. The Trustee's response is summarised below:-

    - The Trustee acknowledged that Mr N's final disinvested Scheme entitlement was lower than in April 2015. The Trustee would not consider Mr N's claim for compensation as the reduction resulted from "market related investment performance".

    - Mr N's Scheme entitlement at retirement was almost the same as in September 2014.

- The reduction in value between April- August 2015 nullified the significant increase in Mr N's Scheme entitlement between September 2014- April 2015.

- The Trustee "took a strategic decision following investment advice and member feedback to change the default lifestyle fund targeting an annuity to a default lifestyle income drawdown approach".

- Market volatility over the period April-August 2015 affected both the old and new funds.

15. On 20 March 2017, after further exchanges of correspondence, the Trustee wrote to Mr N stating that the Booklet had been sent to all Scheme members.

16. On 14 August 2017, Mr N asked for his complaint to be considered at IDRP Stage 2. Mr N maintained all of his previous arguments. Mr N also said that he never received Scheme correspondence and based his decision to remain in the default fund based on "the perceived security associated with Scheme membership rather than any detailed knowledge about it". Mr N maintained that he had never received the Booklet and his view that the Trustee had not sent it to him because of the delay in his transfer from Clerical Medical.

17. On 8 November 2017, the Trustee provided its Stage 2 response. The Trustee said that it did not uphold Mr N's complaint in accordance with the reasoning supplied in its Stage 1 decision.

Adjudicator's Opinion

18. 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:-

- The value of the Scheme's underlying DC funds fluctuate daily (sometimes significantly) depending on the stock market's performance and the value of the fund units.

- All investments involve risk. The amount Mr N received at retirement is not guaranteed until all investments are converted into cash.

- Most of the reduction Mr N identified in his complaint occurred before Friends Life implemented the Trustee's new default investment strategy in June 2015. On 5 January 2015, Mr N's investments were switched to a 'low-risk' retirement fund in advance of his NRA. However, his Scheme entitlement was still invested in various asset classes that fluctuated in value. The Retirement Fund fell in value significantly prior to the switch to the Scheme's new default, the Diversified Fund, in June 2015.

- The Trustee adequately informed Mr N about investment risk in the Booklet. In the Adjudicator's opinion, the Trustee was not responsible for the reduction to Mr N's

Scheme entitlement and met its statutory obligations to provide him with information about investment and risk.

19. 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 I will therefore only respond to the key points made by Mr N for completeness.

Ombudsman's decision

20. In his comments, Mr N accepts that there is an element of risk in all DC pension investments. However, he argues that the reduction in value of his Scheme entitlement "did not occur significantly prior to the switch to the Scheme's new default fund in June 2015". For the reasons identified by the Adjudicator, I do not agree that the fund switch to the Diversified Fund caused Mr N to sustain a financial loss.

21. Between 16 April 2015 and 4 June 2015, Mr N's Scheme entitlement reduced in value by £7,289.88 whilst invested in the Retirement Fund. Between 4 June 2015 and 5 August 2015, Mr N's Scheme entitlement fell in value by £1,209.45 whilst invested in the Diversified Fund. Consequently, I find that the June 2015 fund switch to the Diversified Fund was not the main cause of the reduction in Mr N's Scheme entitlement. In total, Mr N's Scheme entitlement reduced by 7.3% between its highest point in April 2015 and when his investments in the Diversified Fund were sold in August 2015. I appreciate that Mr N was disappointed to learn that the value of his pension had reduced over that time. However, the size of the reduction Mr N identifies in his complaint is not uncommon. Investments are susceptible to underlying market conditions and the Trustee has no control over these.

22. Mr N also says that he was not afforded the opportunity to opt out of the Diversified Fund. Mr N could have done so at any time, in accordance with the information stated in the Booklet. I appreciate that Mr N says that he never received the Booklet. However, a Trustee must only show that it made reasonable efforts to contact Mr N and not prove beyond all doubt that its letters were received. It is not possible to say definitively if the Trustee's correspondence arrived. However, in view of the evidence supplied and, on the balance of probabilities, I find that the Trustee met its duty to inform Mr N of his entitlements and options. Furthermore, Mr N stated that it was always his intention to retire at his NRA. Consequently, I would reasonably have expected Mr N to have mitigated his loss by transferring his Scheme entitlement to a different fund or cash if he was concerned about investment risk in advance of retirement.

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

Anthony Arter
Pensions Ombudsman
5 August 2019