

Ombudsman's Determination

Applicant	Mr K
Scheme	Alliance Healthcare and Boots Retirement Savings Plan (the Plan)
Respondent	Legal & General (L&G)

Outcome

1. I do not uphold Mr K's complaint and no further action is required by L&G.

Complaint summary

2. Mr K has complained that he has lost investment opportunities due to problems he has experienced when requesting fund switches on L&G's online platform (**the Platform**). He believes that this has resulted in a compounded loss of approximately £55,000 and has caused him distress and inconvenience.

Background information, including submissions from the parties

3. Mr K is a member of the Plan, which is a defined contribution occupational pension scheme. His pension pot is invested in a lifestyle investment strategy. He is able to choose from a selection of funds to invest in. Between 2016 and 2018, Mr K raised a number of complaints in relation to the Platform and his attempts to switch funds, which are detailed in the paragraphs below.
4. In 2016, Mr K experienced problems when he tried to make a number of investment changes using the Platform. This was caused by an instruction from 2012 that Mr K was unaware of, linked to the automatic switching of the lifestyle investment strategy. He complained to L&G about the following:-
 - He had been unable to make investment changes using the Platform for over a month. He was not happy to give these instructions over the telephone or by email as he believed that L&G did not always understand his instructions, which led to mistakes.
 - As a result he was concerned that he was experiencing a financial loss.
 - He believed that other providers had better online platforms, so he was considering moving his investments away from L&G.

5. After Mr K had submitted his complaint, he asked one of L&G's representatives to redirect future contributions. L&G processed this incorrectly. So, Mr K contacted L&G on 29 April 2016 to inform it of the error, which it then rectified on 3 May 2016. L&G also confirmed at that point, that if Mr K wished to carry out any investment changes, he could email his request to the L&G representative he had contacted previously.
6. On 18 May 2016, L&G issued its response to Mr K's complaint. It said that there had been an incomplete instruction from 2012 (**the 2012 Instruction**), which had blocked Mr K's instructions to redirect his investments. This had subsequently been closed, so Mr K should be able to make his investment changes using the Platform. It reassured Mr K that if something went wrong with any requests he made by email or telephone, L&G would put it right as it "would not allow [Mr K] to be disadvantaged by [its] actions." As a result of the problems Mr K encountered, it offered him £150.
7. On 14 June 2016, L&G issued an announcement on its website. L&G said that following an in-depth review of the funds it offered, it was going to reduce the number of funds available through its workplace pension schemes, like the Plan, in the coming months. It also said that the affected funds would be closed in October 2016, and that it would start to write to all affected members in the week commencing 20 June 2016. As a result, members would be given the option of switching to the alternative fund provided, or to another fund of their choice.
8. On 20 June 2016, Mr K contacted L&G. He said that L&G had failed to acknowledge that an incorrect instruction had been carried out while his complaint was being investigated. He believed that this had decreased the value of his pension and had negatively impacted the size of his pension going forward. This had caused him anxiety and insomnia. In addition, he believed that there had been no transparency about the incomplete 2012 Instruction. He wanted an explanation for what had caused the issue.
9. On 29 June 2016, L&G apologised for the incorrect instruction actioned by one of its representatives. It acknowledged the following:-
 - Mr K submitted a switch and a redirection request on 27 April 2016. While the switch was correct, there was an error with one of the redirected funds. The representative amended this after Mr K emailed L&G on 29 April 2016. L&G checked Mr K's transactions, and as the error was for future payments only, and no payment was received until 16 May 2016, this did not affect Mr K's fund value.
 - The 2012 Instruction did not cause a loss as this was for future payments, the first of which it received on 16 May 2016.
 - Regarding Mr K's anxiety and how he preferred to use the Platform, it reminded him that he could still contact L&G by telephone or email.
 - If he encountered problems using the Platform and needed to telephone or send an email to request a fund switch, L&G would make sure he was not disadvantaged.

- The 2012 Instruction was the result of the automatic switching associated with the lifestyle investment strategy. It had not disadvantaged him. However, it had prevented him from performing fund switches scheduled for a future date, an issue that was highlighted when he first requested to do so in 2016. It apologised that this was not picked up sooner and offered an additional £100. This brought its offer to £250 in total.
10. In September 2016, Mr K attempted to make a number of fund switches using the Platform. These were not completed in the way that Mr K had intended, as the funds that he had selected were due to close, but there was no message that conveyed this on the Platform. Mr K's funds were invested in an alternative fund. He subsequently complained to L&G about this.
 11. On 21 October 2016, L&G issued a response to Mr K's complaint concerning his attempted fund switches in September 2016. It explained that the funds Mr K had chosen were due to close. It acknowledged that he was not told that he would be placed into L&G's alternative fund on the Platform. It also acknowledged that anyone that had previously been invested in the fund in question, would have received a letter about the closure, dated 11 July 2016. It said that unless L&G had been contacted prior to the fund's closure, and instructed to switch into a specific fund, invested members would automatically be moved to the alternative fund. L&G apologised that this information was not on the Platform. It assured Mr K that it was taking steps to avoid anything like this from happening again. It offered an additional £100 by way of apology.
 12. The evidence indicates that there were no further complaints from Mr K until 2018.
 13. On 8 January 2018, Mr K complained about losing access to his preferred funds and the impact this had on his investments, as L&G had closed them. He highlighted that L&G had said this was as a result of customer feedback suggesting that the fund selection was too large. Mr K questioned this explanation, as he had not received any surveys from L&G at any time.
 14. L&G issued its response on 19 January 2018 (the **January Letter**). In summary, it said:-
 - It had forwarded Mr K's concerns to its CEO; the January Letter constituted L&G's response.
 - It had responded to Mr K's previous complaint concerning the fund closures on 21 October 2016.
 - It had forwarded Mr K's comments to its Product Team. Its Product Team confirmed that there were no plans to change the funds at this time. It had asked the Product Team if detailed explanations could be provided about the reasons for the funds closing, prior to the closures. Lastly, it had shared Mr K's comments about the Asian and Indian markets and asked if the Product Team could provide additional detail around the decision not to invest in these areas.

- It had reviewed Mr K's pension and had made other investments available to him. It explained that if he was unhappy with the service provided by L&G, he could transfer the majority of his pension benefits elsewhere to make use of the funds offered by another pension provider. He would need to keep a minimum of £100 with L&G to benefit from any employer contributions.
15. Mr K replied on 8 February 2018. He considered that L&G's response was dishonest and incomplete. He believed that the feedback L&G received was in response to a customer survey that he had not received, and noted that L&G had not shared the survey that resulted in the closure of some of the funds. He also noted that L&G had not planned to compensate members who had been affected by this process.
16. L&G responded saying it was happy to telephone Mr K to go through its fund selection. However, any responses provided about closing funds were likely to be general as there were a number of factors considered when making those decisions. It confirmed that there were no imminent plans to close or open new funds. However, its Product Team were constantly reviewing funds to ensure that they were meeting market requirements and the needs of L&G's customers. It acknowledged that the funds may not meet all of these needs, but L&G was required to consider scalability and cost to customers. L&G concluded by offering a telephone call so that it could understand the outcome that Mr K was looking for and facilitate feedback. It stated that it could not promise that this would result in L&G changing its position.
17. On 23 February 2018, Mr K responded to L&G. He said he was frustrated by L&G's non-specificity on the answers to his points. He explained how L&G's decision to close down funds ignored the needs of investors like himself, which subsequently left him with funds that were not performing when compared to the 'top class funds' in the same sectors. He said he was constantly tracking the funds offered by L&G and that he had a right to question the available funds, as he believed L&G had made it impossible for him to reach his target retirement benefits. He wanted L&G to respond to the questions he had raised.
18. L&G issued a response to Mr K's queries on 21 March 2018. It said, in summary:-
- Members were typically invested in the default strategy but could select alternative funds of their choosing from a wider 'self-select' investment range. The range of funds available had grown since 2016, and L&G aimed to close a number of further funds for the following reasons:-
 - Industry research and investor trends showed that the majority of members remained invested in the default fund chosen by their employer.
 - Investors become confused by too much choice when selecting funds.
 - The aim was to make investment decisions simpler by providing a reduced range of funds covering key asset classes.

- L&G had many funds on the platform with very small investment in them. This meant L&G was unable to negotiate the best price for members from the external investment provider.
 - It was costly for L&G to run a significant number of funds with little investment in them.
 - It had closed funds which had impacted Mr K directly, but it had tried to select alternative funds which invested in similar assets in a corresponding sector, with a lower charge than the current fund. This meant selected index-tracking funds in most cases.
 - All members who were invested in the impacted funds were notified and given a 90 day notice period, so they could select a different fund if they were not happy with L&G's alternative fund. If they did not switch the fund, L&G moved the member to the alternative fund.
 - Within the 90 day notice communication, L&G said that there was no guarantee a fund would continue to perform in the future and it also recommended members to review the way their pension benefits were invested.
 - It was sorry to hear that Mr K no longer felt he was able to plan for his retirement based on the fund selection L&G offered, but it had no plans to reintroduce any funds that it had closed.
 - The terms and conditions enable L&G to make amendments like this to the fund range.
19. The terms and conditions are set out at Appendix One.
20. The terms and conditions contained in L&G's 'Member's Booklet' from 2018 are displayed at Appendix Two.
21. On 28 March 2018, Mr K replied to L&G. He said that he did not believe that L&G had responded to most of his 'important points' nor was it thinking about the minority of investors that were aiming to grow their pension benefits. He also said that despite the terms and conditions, L&G had a responsibility to help members grow their pension benefits and that he had been deprived of this opportunity by L&G's selective fund closures.
22. On 20 April 2018, L&G issued its response. It said the following:-
- It had approximately 40 funds that were in the high-risk category, spread over a number of geographical regions. While it did not have any specific Indian funds, there was exposure to the Indian stock market within its global and Asian funds.
 - The rationale for its fund choices is that many members of the Plan are not comfortable with making their own investment decisions. Having access to hundreds of funds makes it harder to make a decision than from a reduced range.

It could confidently make this statement because over 90% of investors remained in the default strategy made available by the employer.

- It would raise Mr K's view with its investment advisers and ask for their professional opinion on the appropriateness of adding an Indian fund that would then become available to all of L&G's members. It said that it would do this at L&G's next review in May 2018.
- It wanted to limit increases in fund charges for its members and was able to offer lower priced funds through index solutions offered by L&G Investment Management. This was not a revenue generating exercise; the Fund Performance Committee reviewed the performance of the funds against benchmarks as well as the appropriateness of the investment range offered via its products.

23. Mr K responded on 23 April 2018. He considered that L&G had selectively responded to the questions he had raised. In his view, there had been a breach of trust for the following reasons:-

- L&G had not acted in the best interests of the Plan's beneficiaries.
- It had not acted impartially towards the "minority investors" who had vested their trust in preserving their pension.
- It had not provided investors with an opportunity for investment growth.
- It had not acted prudently in selecting and dealing with investments.
- It had put its organisational interests before that of the members. It did not appear that L&G had responded on this point.

24. On 12 June 2018, Mr K attempted a switch to the First State Global Resources Fund on the Platform, but he could not complete his instruction.

25. On 13 June 2018, Mr K telephoned L&G to submit his fund switch request to First State Global Resources Fund. Sometime after the telephone call, L&G emailed Mr K to say that he could not switch into that fund as it was 'soft closed'. Mr K complained that he was only informed about the 'soft' close of the fund after he had tried to switch into it. He noted that there was no information about this on L&G's website, and that the staff members he spoke to did not inform him about it either. He further complained that:-

- He had previously experienced fund closures in relation to the Plan. He questioned how this could have happened again.
- L&G had changed the investments he already held in the First State Global Resources Fund without prior notice or his consent. L&G should have given him sufficient notice to enable him to choose alternative funds.

- L&G's fund closures should be investigated by The Pensions Regulator (**TPR**).
 - He was unhappy with L&G's Platform.
 - He considered that he had been misled. L&G's helpline accepted an investment instruction from him that was invalid.
 - He was concerned about sending written investment instructions via an unsecured method. L&G were violating the General Data Protection Regulations (**GDPR**) by asking for written investment instructions by email.
 - He was unhappy that L&G had changed its management fees for his pension but had not provided a secure, robust or updated platform to allow him to manage his investments.
 - He was starting to lose trust in L&G, and it gave him anxiety each time he had to contact it.
26. On 20 June 2018, L&G wrote to Mr K to confirm that First State Investments (UK) Limited were closing its First State Global Resources Fund. As a result, L&G had moved Mr K's investment in this fund to an alternative fund with immediate effect. The evidence indicates that Mr K did not receive this letter until 28 June 2018.
27. On 29 June 2018, L&G issued two separate responses to Mr K. In one of its letters, it said:-
- It apologised that the First State Global Resources Fund had closed and that L&G had moved his investments from this fund to an alternative fund. It noted that Mr K did not think the alternative fund was appropriate or similar. L&G had been told on 22 March 2018 that the fund was due to close and the deadline to move any funds was 26 June 2018. Its product team had reviewed all of L&G's funds to decide on the most suitable alternative fund.
 - The Investment Team was aware that the communication around this fund closure was short and so there were plans in place to provide additional time going forward. The Compliance Team had reviewed the letters sent to members and it was satisfied that notice had been provided despite it being short.
 - It had the right to make fair and reasonable changes to the investments. It would always aim to give as much notice, where possible. If Mr K believed that TPR should investigate L&G's actions, he would need to contact TPR directly.
 - There was a project underway to improve the Platform. It was unable to provide a date when this would be implemented but confirmed that this was a high priority project. Nevertheless, Mr K's comments would be passed to the relevant team.
 - Its helpline staff had offered to take Mr K's investment instruction over the telephone. The representative had confirmed that the funds chosen were available and that she would send the request on Mr K's behalf. However, its helpline staff

were not made aware of the approaching fund closures, so they were not aware that the First State Global Resources Fund was no longer available at that time. It apologised for providing misleading information, as this was not the high level of service it aimed to provide.

- Moving forward, it offered Mr K a direct contact so that he did not need to provide personal details or his plan number.
- The annual management charge was deducted for a number of reasons. This included the management of investments and the ongoing maintenance of the Plan, such as issuing annual statements and letters.
- It offered a further £150 as an apology for any trouble and upset caused.

28. In the second letter, L&G said that it had answered some aspects of Mr K's complaint previously. It had also reviewed previous complaint responses where he had been provided a point of contact if he experienced any technical issues. It had not been able to find evidence that he had contacted L&G to process a change of investments, so it did not consider it appropriate to offer any compensation for the losses he had mentioned. He had been provided alternative methods if he had any difficulties, but he had not used these. It confirmed that it was looking to make improvements to its online offering for its customers and reiterated that there was a digital upgrade programme underway. It planned to have some new features available in 2019. As a result, this was its final response in relation to his complaint concerning its online service and changes to his investments from 2016.
29. On 25 July 2018, L&G wrote to Mr K to say that a number of funds were due to close.
30. On 24 August 2018, Mr K complained as he was unable to carry out a fund switch. He said he received a message saying it was not valid, but the message did not indicate what was wrong. He highlighted that this had happened on a number of occasions over the past three years, which was allegedly causing him financial losses.
31. In response, L&G wrote to Mr K and apologised for the failed fund switch. It confirmed that it had previously written to him about the fund changes. The letter had contained a web address where he could obtain details of all the changes made to the fund. Although the Platform was performing correctly, there was no message displayed to explain that Mr K was trying to switch to a fund that was closing. It offered Mr K a further £50 and said that if he required any assistance when carrying out fund switches, he could contact L&G directly.
32. On 1 September 2018, Mr K contacted L&G as he was unable to retrieve his information on the portal. He said that this happened repeatedly. L&G did not appreciate the losses he was experiencing by not having access or not being able to carry out switches because of the "frequent technology glitches" with the Platform.

33. On 3 September 2018, L&G responded saying that some of the funds were closing which had caused problems for members changing their investments online. It said that if Mr K could send his instruction via email, it could then check this against the funds he was invested in, and the funds that were closing, to see if this was the problem.
34. Mr K replied the next day. He noted that L&G had not sent information by post about the fund closure and that there was no mention of this on the Platform. If this was the case, he questioned how the investor was meant to know. He said that he did not think an apology or a cheque for £150 would help as his losses were beyond this on a compounded basis.
35. On 7 September 2018, L&G issued its response to Mr K's complaint. In summary, it said:-
- It wrote to Mr K on 25 July 2018 to say that it was closing more funds. The letter included a website that held details of all the funds due to close.
 - It agreed that there had been issues with the Platform where details of the funds that were due to be closed, were not updated. This meant that if a member tried to switch, they would get an error but no notification. It apologised for the inconvenience this caused and offered Mr K an additional £50.
 - It checked Mr K's online account, but it did not find any access issues at that time. It reiterated that if he needed any assistance, he could always contact L&G directly with the investment instructions.
 - It noted that there may be alternative investment strategies that were more suitable for him. If this was an option he would like to explore, it would highly recommend that he seek independent financial advice before making any decisions.
36. On 17 September 2018, Mr K emailed L&G after he received a cheque for £50. He said that he believed he had made thousands of pounds in losses on a compounded basis. Mr K followed this email up on 1 October 2018 and then emailed again on 29 October 2018 as he had been experiencing further error messages while attempting to switch his investments. He asked L&G to raise this as a complaint.
37. On 7 November 2018, L&G emailed Mr K with a step by step procedure to ensure that errors would not occur when switching funds.
38. Mr K responded the same day to say that as he had been managing his investments since 2015, he was familiar with the process. He said that the issues were:-
- L&G's platform was very basic, with no information available to indicate the reason for the error messages.
 - It was unclear whether the error was caused by either a) the funds being closed without prior information b) technical problems of an unknown reason which

prevents timely switching of funds or c) a blackout period which had not been informed to members.

- As a result of the above, he had contacted L&G's helpline staff on 31 October 2018; they were not willing to help him. So, he asked L&G again to raise this as a complaint.

39. During The Pensions Ombudsman's Office's (**TPO's Office**) investigation of his complaint, Mr K raised a number of further complaints to L&G relating to failed fund switch requests and issues with the Platform. In particular, he said he experienced problems with:

- the time it took L&G to set up his direct debit payments so that he could make individual contributions after he ceased employment;
- L&G not providing him with a percentage of annualised growth;
- logging into his account; and
- L&G misunderstanding his fund switch instructions.

Mr K's position

40. He acknowledges that L&G issued fund closure notices prior to the large number of fund closures in October 2016. However, he believes it only provided two months' notice.
41. As a result of L&G's acts and/or omissions in relation to 'failed' fund switches and fund closures, he has suffered a compounded investment loss. He considers that L&G's awards are inadequate and questions how L&G calculated his losses. He does not think L&G provided sufficient information when closing funds. He claims that he was given misinformation by members of its staff. These are fundamental breaches of trust.
42. He claims that the Platform is under-invested and that it is not customer friendly. He believes that it is a mandatory requirement to provide a safe and secure technology platform. He has not seen any of the 'improvements' that L&G said it was carrying out.
43. When he tried to submit fund switch requests over the telephone, they were misunderstood. He does not believe that it is secure to use his personal email address for fund switch requests.
44. As L&G is in charge of the administration of the Plan, he believes it should be easily contactable during work hours. He also believes that it should do more to let investors like him know when funds are closing. L&G put its own interests before members by using its own funds as alternatives for those that it closed.

45. While things occasionally go wrong, if it happens several times over the course of three years, it can no longer be considered as 'occasional'. He believes that this is no longer a case of maladministration but evidence of corruption.
46. He has noted that he has not received a response from L&G's CEO. He questions why the following points have not been addressed by L&G:-
- The viability of using alternative means of switching funds when L&G did not respond to his attempts to make contact during work hours?
 - What it meant when it stated that it was improving its online service?
 - Why it mentioned an incomplete instruction from 2012 when he did not carry out any transactions at that time?
 - Why he had experienced several instances of switches going wrong over the course of three years?
 - Why the Platform failed to inform the user of the reasons a switch is not completed?
47. Mr K has said that if he had known that he could transfer most of his pension, he would have done so in 2016. The ongoing issues he has experienced has caused him mental anxiety and insecurity.

L&G's position

48. Mr K had alternative methods of contacting L&G if he experienced problems with the Platform; he chose not to use these. L&G confirmed that these were available to him on several occasions. If Mr K had chosen to email L&G, all he would have needed to provide was the Plan number and an instruction to switch 100% of his investments.
49. L&G has paid Mr K a total of £550 in respect of issues he raised between 2016 and 2018. It also offered a further £100 in 2019, following a complaint about his request for a percentage of annualised growth.
50. Its investment team confirmed that there were no failed switches on Mr K's account. There can be a technical issue that causes instructions to fail. However, the team have a robust process in place to pick these up within the timescale switches are normally processed. As a result, if this issue occurs, members should not be aware that there has been a problem. This has happened to Mr K on two occasions, but the switches were pushed through immediately when the request was processed.
51. The incomplete 2012 Instruction related to future contributions. L&G contacted Mr K to discuss the change before making it. As this was corrected before it received a new payment, there was no financial detriment to him.
52. It provided TPO's Office with information demonstrating that there had been 1,453 transactions on Mr K's account between 1 January 2016 and 27 December 2019. It

also provided copies of the information relating to fund closures in 2017 and 2018, and the member booklet that contained the Plan's terms and conditions from 2016.

Adjudicator's Opinion

53. Mr K's complaint was considered by one of our Adjudicators who concluded that no further action was required by L&G. The Adjudicator's findings are summarised below:-

- L&G explained that it had decided to close a number of funds as a result of feedback received from its customers. L&G did not issue a customer survey, but even if it had, it was likely that it would have been issued to a selection of customers rather than to all its investors. In any case, this would not be information L&G is required to disclose.
- L&G could choose which funds it decided to offer to its customers. By closing funds that Mr K had hoped to invest in, L&G's actions did not amount to maladministration. There is no legislative or regulatory requirement for pension providers to offer a certain variety of funds to members, it is a commercial decision for providers.
- L&G followed the Plan's terms and conditions when it closed funds by providing notice to affected members. The Adjudicator accepted that it could have done more when Mr K attempted to switch to funds that were due to close. It had apologised for this in 2016 and offered £100. When Mr K attempted to switch to a 'soft closed' fund in 2018, L&G apologised again and offered £150 as it recognised that it would have been helpful if it had published information about the fund closing on its website. So, the Adjudicator did not agree that more should be done.
- The Adjudicator considered that L&G had acted correctly when it had suggested L&G funds as an alternative for funds that were closing. This was an attempt to find funds that were closely aligned to the closing funds. Members were not obligated to invest in that fund and could have opted for a different fund if they did not agree with L&G's choice of alternative fund. Consequently, the Adjudicator did not think L&G was putting its own interests before its customers.
- While fund closures may have restricted Mr K's potential for investment growth, L&G could not be held responsible for the alleged financial loss, as closing funds did not amount to maladministration. Mr K was not obligated to stay with L&G. As early as 2016, Mr K had indicated that he was considering changing pension provider, and L&G explained how Mr K could transfer his pension funds while still benefitting from pension contributions from his employer. Nevertheless, Mr K remained with L&G and in doing so, he had accepted the limitations of L&G's funds.

- Although there were instances where Mr K could not use L&G's Platform, this did not mean there had been a 'failed' fund switch as he could have emailed L&G or telephoned to submit his fund switch requests. The Adjudicator acknowledged that Mr K preferred using the Platform, but he could have mitigated his financial position. It was only when he had exhausted all possible methods of submitting such a request, and L&G did not process it, that it could be considered as a failed fund switch. Consequently, L&G could not be held responsible for any investment loss when Mr K had not used all methods of contact that were open to him.
- While Mr K might have been wary of using these due to errors in the past, the errors had been rectified and Mr K had always been put back in the position that he ought to have been in. So, the alternative methods of contact were viable options.
- There was no regulatory requirement for pension providers to provide online access to members. However, if one is provided, it should be of a standard where members can use it effectively. There were over 1,400 transactions on Mr K's account, which indicated that Mr K had used it effectively. So, the Adjudicator did not agree with Mr K's position.
- The Adjudicator acknowledged that wait times were common when Mr K telephoned L&G. The Adjudicator also acknowledged Mr K had been given a direct contact for emailing fund switch requests. He could have used these at any point. While there was no guarantee that the contact would immediately respond, L&G would be required to action his request in line with the Plan's terms and conditions.
- In the Adjudicator's view, L&G was not required to demonstrate the work it had carried out to improve the Platform. Mr K, on the whole, had been able to use the Platform to carry out what he needed to do for the vast majority of the time. So, it had been functional and fit for purpose.
- L&G had dedicated staff to respond to complaints from members, and there was no requirement for a pension provider's CEO to respond to member queries. In the Adjudicator's view, L&G had done all that it needed to do in the circumstances by providing the responses that it had issued.
- The Adjudicator's opinion was that L&G had responded to Mr K's questions, including those concerning incorrect fund switches and the information provided on the Platform.
- There was no legal requirement for L&G to provide a percentage of annualised growth, so the Adjudicator did not see that its omission to provide this information amounted to maladministration.
- The Adjudicator considered that L&G could have done more in relation to Mr K's correspondence dated 23 April 2018. In the Adjudicator's view, this should have been acknowledged by L&G, even though Mr K ought to have been aware he

could escalate his points. As Mr K subsequently complained two months later, the Adjudicator could not see that this omission had caused significant distress and inconvenience.

- Overall, while Mr K had experienced errors with a number of his requests, there was no evidence that L&G had done this deliberately and it had corrected the errors when they had occurred. Since 2016, L&G had said that if a mistake was made, it would correct it and ensure that Mr K was not disadvantaged. So, the Adjudicator did not agree with Mr K's claim that L&G's acts and/or omissions amounted to more than an administrative error.
- L&G had offered more than £500 in recognition of its errors, which the Adjudicator thought was satisfactory.

54. Mr K did not accept the Adjudicator's Opinion and the complaint was passed to me to consider. Mr K provided further comments, which are summarised below:-

- His complaint should be reviewed from a 'legal perspective' in respect of L&G's duties under The Occupational Pension Schemes (Charges and Governance) Regulations 2015.
- He trusted L&G to manage the Plan effectively and protect his interests. It had failed in its duty of trust with the following acts and/or omissions:-
 - Closing more than 50% of the available funds in the Plan. He believes this was done to improve organisational profit and disadvantaged members who were not in the default lifestyle investment strategy.
 - Failing to improve the Platform. The frequent problems he experienced prevented him from switching funds. This has impacted his opportunity to grow his pension pot on a number of occasions. It is incorrect to say that all methods of communication should be used to submit a fund switch request before it amounts to maladministration. He experienced errors when he tried to submit requests by email and telephone. L&G should have had the right procedures in place to stop this from happening, as his financial transactions are not being processed promptly and accurately all of the time.
 - Its lack of transparency around the fund closures, both in terms of the decision and the information provided in relation to final dates for switching in and out of the funds. He also believes that L&G amended its terms and conditions in 2018 to incorporate further reasons why L&G may need to close funds. This was after it had closed over 100 funds in October 2016, so he does not see how this was in line with L&G acting in the best interests of its members and does not think this was legitimate.
- He believes that he encountered problems with approximately more than one in ten fund switch requests, which is unacceptable.

- He does not see how L&G representatives can understand a customer's fund switch request over the telephone. He believes the information the customer can see online is different to what the representatives can see. He is also unsure how to detail his fund switch requests via email. L&G should have provided guidance on this.
- L&G has an outdated, under-invested and misleading Platform. While the Adjudicator said the option of having the Platform to submit fund switch requests was not mandatory, he thinks the Adjudicator ought to have done more. He believes that there should be an investigation into whether a switch that is not accepted by the Platform is recorded, as this would evidence the problems he experienced with the Platform.
- He would like his consequential losses to be considered.

55. I note the additional points raised by Mr K, but I agree with the Adjudicator's Opinion.

Ombudsman's decision

56. Mr K has raised a number of issues. I find that his main issues are (i) L&G closing funds and the alleged impact this has had on his investments, (ii) the alleged unreliability of the Platform, (iii) the effect this has had on his ability to submit fund switch requests and the alleged subsequent impact on his investments. Lastly, the unsuitability of the other methods of submitting fund switch requests. As I agree with the Adjudicator in relation to the other issues he has raised, I shall only address Mr K's main complaints below.

Fund closures

57. Having reviewed the Plan's terms and conditions at the time L&G closed a number of funds in 2016, I consider that it has acted correctly. At that time, L&G had the opportunity of closing funds where, in its opinion, it was inappropriate to maintain them. Taking into consideration that L&G had received feedback about the range of funds it offered, and the costs of running funds with little investment, L&G's decision to close funds in 2016 does not amount to maladministration.
58. I acknowledge Mr K's claims that, in closing the funds, L&G committed a breach of trust as it had closed a large number of external funds and had suggested internal funds as alternatives. I disagree.
59. Members are not obligated to invest in L&G's internal funds. In any case, there is no legislative requirement for L&G to offer either specific external funds or a percentage of external funds, as this is a commercial decision. So, although L&G closed a number of funds, this does not mean that it has not acted in its members' best interests.

60. If Mr K no longer considers that the funds offered by L&G suit his needs, he is under no obligation to stay with L&G. I note that he is no longer employed by the sponsoring employer of the Plan.
61. Mr K has had a number of opportunities to transfer his pension benefits to an alternative provider that offers funds in line with what he is seeking. I note that L&G has explained that this option is open to him, so I am surprised, given his obvious dissatisfaction with L&G, that he has not transferred his pension investments to an alternative pension provider.
62. In light of this, I do not consider any fund switch requests, that did not complete as a result of a fund closure, amount to maladministration. L&G is entitled to close funds. When funds close, there is generally a 'soft' closure, during which members can switch out of that fund, but not in. So, I cannot hold L&G responsible for any investment growth Mr K believes he has lost as a result of these decisions.

Information provided in relation to fund closures

63. L&G changed its terms and conditions to incorporate further instances where it could close funds. While Mr K believes that there has been a lack of transparency in relation to this, I cannot see that L&G acted in error. As explained in paragraph 59 above, the range of funds that L&G offers is a commercial decision, so it can also choose the circumstances in which it can stop offering certain funds.
64. By amending the Plan's terms and conditions to include further reasons for fund closures, L&G provided further clarity and was being transparent with its members. It does not mean that previous fund closures were incorrect, as there were still multiple reasons why L&G could have closed the funds in 2016. So, I do not consider this a breach of trust.
65. I acknowledge that it would have been helpful if the Platform had prompted Mr K about soft closures of funds or funds that were due to be closed. However, the omission of this information when Mr K attempted to switch to these funds does not constitute maladministration or a breach of trust. On a number of occasions, information about fund closures was published on L&G's website or in the letters L&G had sent to Mr K. Although the Platform had not prompted Mr K, the relevant fund closure information was made available to him.
66. Having said this, I appreciate that there was one instance in June 2018 where Mr K was unable to transfer to the First State Global Resources Fund using the Platform, and L&G's representatives were also unaware of the upcoming fund closure. In addition, Mr K's investment that he already held in that fund was subsequently moved to a different fund. Nevertheless, it is clear from Mr K's actions that he identified the change in his investments quickly, as he complained about it before L&G had issued its fund closure notice.
67. Although, Mr K found out about the soft close as a result of his attempted fund switch into the First State Global Resources Fund, L&G subsequently issued the fund

closure notice later that month. So, while the notification can be classed as late, L&G still provided notice.

The Platform

68. I understand Mr K prefers to submit fund switch requests using the Platform, and I agree that if a pension provider offers an online platform, that it should be fit for purpose. Between 2016 and 2020, it is evident that on a number of occasions, Mr K was unable to submit fund switch requests in the manner that he would like. However, this does not mean that they should be considered as failed fund switch requests.
69. I note that Mr K does not consider that he should have to use other methods of communication to submit his fund switch requests. I disagree. By using other methods of communication available to him, Mr K could have mitigated any alleged financial loss and ensured that his request was submitted to L&G. Mr K ought to have known that if he was unable to access the Platform, or an error message appeared when submitting his fund switch requests, it was likely that they had not been submitted. Furthermore, that the Platform would not log incomplete fund switch requests. Consequently, there would be no financial transactions for L&G to process.
70. If the Platform was the only means of submitting fund switch requests, and Mr K was unable to do so, that would amount to maladministration. However, this is not the case here as L&G provided Mr K with alternative methods of contact, which he could have used. By refusing to use other methods open to him, to ensure that his fund switch request had been received by L&G, I consider that Mr K accepted any potential adverse impact this may have on his investments.
71. I am satisfied on reviewing the evidence in this case that L&G had adequate procedures in place to prevent problems from occurring. Namely, there were alternative methods of contact and/or submitting fund switch requests. I agree that the Platform should have allowed Mr K to submit his fund switch requests. That said, when he was unable to do so, he was not prevented from changing his investments. As a result, I have not found a breach of trust.

Alternative fund switch requests

72. I appreciate that Mr K is hesitant to submit his fund switch requests by email or over the telephone. I note that he has raised concerns about how his requests should be detailed, as he is not confident L&G's representatives will interpret his instructions correctly. Nevertheless, this does not mean that these are no longer viable options.
73. If Mr K needed guidance on how to submit fund switch requests via email, he had the opportunity to ask L&G on any occasion. There is no requirement for L&G to automatically provide information to this effect. Similarly, while Mr K experienced errors when giving fund switch requests over the telephone, L&G ensured that he was put back in the correct position. In addition, if Mr K was concerned about giving

instructions over the telephone, he could have asked the L&G representative to confirm their understanding before finishing the telephone call.

74. In light of the options available, Mr K could have submitted his fund switch requests, rather than wait until the Platform was available again. Consequently, I do not agree that Mr K has been prevented from changing his investments, nor do I find any loss of investment growth that Mr K could not have mitigated.
75. I do not uphold Mr K's complaint.

Anthony Arter

Pensions Ombudsman
10 August 2021

Appendix One

The terms and conditions in L&G's 'Member's booklet' from 2016

"Moving between funds

You may instruct Legal & General at any time, in writing or any other manner which Legal & General has notified to you in writing is acceptable to it, to exchange units already credited to your arrangement for units to an equal value in a different fund or funds specified by you. This option, which is often called 'switching', is subject to the conditions described below:

- (i) The value of the units in the respective funds will normally be calculated at the respective unit prices (calculated as described in 'Funds and Their Operation' on page 17) at the second subsequent working day following the receipt date on which your instruction is received by Legal & General at the address given on page 4.

However, the insurer may delay calculating the value of units by up to 48 hours if the number of switches involving one or more of the relevant funds (in respect of all policies linked to that fund) is, on the second working day following the receipt date of the switch instruction, higher than the daily average for the previous six months and is, in the opinion of Legal & General at such a level as to adversely affect the performance of the fund(s) for policyholders who continue to be credited with units in that fund(s).

- (ii) In certain circumstances a switch out of a fund may be delayed. The reason for this is explained in the section entitled 'Calculation of Pension Pot' on page 15.
- (iii) The Annual Management Charge due in respect of the period from the last date on which such charges were deducted up to and including the date on which the switch is made, will be deducted on the date of the switch in accordance with section 2 of 'Amount and Deduction of Annual Management Charges' on page 20.
- (iv) The Annual Management Charges to be deducted in accordance with section 2 of 'Amount and Deduction of Annual Management Charges' on page 20 on the next monthly due date following the switch will be those due in respect of the period from the date of the switch to the last day of the normal monthly interval.
- (v) Legal & General may restrict or refuse any switch between funds if the value of the units subject to the switch is less than £100 or if the switch would result in you investing in more than the maximum number of funds allowed.
- (vi) No charge is made for switching, nor is there a limit on the number of switches you can make. However, Legal & General may introduce such a charge in the future or impose a limit on the number of switches allowed at no charge. See 'Legal & General's Right to Make Changes' section on page 23."

“Closure of funds

The insurer may decide that a fund will cease to be available under the scheme policy:

- (i) in the case of an internal fund, if, in the insurer’s opinion, it becomes impractical to maintain a particular fund, e.g. where there are very few investors;
- (ii) in the case of an external fund:
 - if an external fund manager ceases to trade; or
 - if an external fund manager closes an investment in which a fund is invested; or
 - if an external fund manager merges any investment in which a fund is invested with another investment; or
 - if in the opinion of Legal & General it becomes impractical or inappropriate to maintain a particular fund.

If this happens, you will, where practical, be given at least three months’ notice in writing, except where a standard external fund is closed and it is impractical for the insurer to provide such notice. In this case the insurer will provide as much notice as is practical.

You will also be given an opportunity to switch any investment you have in an affected fund into another fund, or funds, in accordance with Section 3 of ‘Application of Pension Contributions’ on page 14.

If you do not specify into which other fund, or funds, you want units to be switched, they will be switched into the fund, or funds, specified by Legal & General in the notice.”

Appendix Two

The terms and conditions in L&G's 'Member's Booklet' from 2018

"Fund closure

The insurer may close a fund so that it is no longer available, or so that no further contributions can be made to it. This may happen if:

- In the opinion of the insurer it becomes impractical or inappropriate to maintain a fund, e.g. where there are very few investors
- A fund manager stops trading
- A fund manager closes an investment in which a fund is invested
- A fund manager merges any funds for regulatory reasons
- The fund ceases to meet its objectives
- The fund performance consistently falls below expectations in the opinion of the insurer
- The fund is not suitable for use within a workplace pension, in the opinion of the insurer
- The fund does not meet customer needs.

The reason we may make a change is not limited to these scenarios.

If this happens we will give you three months' notice in writing. If this is not possible we will give you as much notice as we can. We will give you details of the change, the options available to you and will explain what will happen if you don't respond. You will have the option to opt out of the change and make your own investment decisions.

If we do not hear from you we will switch your units into the fund or funds, specified by us in the notice.

In the event of your arrangement requiring an alteration involving a fund which has subsequently closed, we may make adjustments to your arrangement to reflect that change without reprocessing the transactions involving the closed fund."