

Ombudsman's Determination

Applicant	Mr D
Scheme	Saatchi & Saatchi Group Money Purchase Plan (the Plan)
Respondents	Publicus Group UK Trustee Limited (the Trustee)

Outcome

1. Mr D's complaint against the Trustee is partly upheld, but there is a part of the complaint I do not agree with. To put matters right (for the part that is upheld) the Trustee shall pay Mr D £500 in recognition of the significant distress and inconvenience caused by its handling of his case.
2. My reasons for reaching this decision are explained in more detail below.

Complaint summary

3. Mr D complains that the Trustee has implemented a switch to Lifestyling without his permission. He is also unhappy with the time taken by the Trustee to respond to his complaint.

Background information, including submissions from the parties

4. In May 2010, Mr D, aged 51, was sent a letter from the Trustee explaining that the way the Lifestyling arrangement operates has changed. It said that members did not need to do anything unless they were approaching retirement, which is defined as, "typically within 6 years of retirement, or over age 54, or if you want to retire before age 60". The letter also said that if you were not approaching retirement the information was provided to notify all members of the change of approach.
5. The Lifestyling option announcement (**the announcement**) explained what Lifestyling was and when it would occur. There is a section entitled, in bold, "Reintroduction of automatic Lifestyling". This section explains that automatic Lifestyling was suspended in 2009 but it was now reinstated.
6. The announcement also sets out four choices for current members if they wish to invest their funds differently and Selfstyle. Following the options, again in bold, there is a section entitled, "If you do nothing and are not currently Selfstyling". In this section it explains to members that unless they state otherwise their account will be

Lifestyled and this “could involve the immediate transfer of a significant amount of your monies to different funds if you are over 54.” Mr D was provided with his member details which confirmed that he was not currently Selfstyling.

7. The announcement also included a breakdown of the standard Lifestyle switching programme. It showed from age 54, how his funds would be distributed over a 5-year period.
8. Mr D contacted AON, the Administrators, to query whether the Trustee could implement a switch to Lifestyling without his approval. AON responded to Mr D on 29 December 2016, enclosing a copy of the letter from the Trustees issued to him in May 2010. AON also confirmed that his complaint had been passed on to the Trustee.
9. On the same day Mr D responded saying the letter of May 2010 was for information only and that it said, “you are not required to do anything unless you are nearing retirement”. Therefore, he thought he would be informed if Lifestyling would occur. He also said that he thought no funds would be switched unless he provided positive approval. He requested for his complaint to be reviewed by the Trustee as there was no legal justification for the switch to Lifestyling to have occurred.
10. On 2 November 2017, Mr D contacted the Trustee. He chased for a response to the complaint he had raised in December 2016.
11. On 24 November 2017, eleven months after first raising the complaint, a formal response was issued to Mr D. The Trustee apologised to Mr D for the delay in providing him with a response. The Trustee did not uphold his complaint and explained that it had provided him with sufficient information to make him aware that Lifestyling would automatically be applied at age 54.
12. On 26 November 2017, Mr D wrote to the Trustee to appeal the decision. He explained that the letter of May 2010, that the Trustee was relying on, explicitly states that he was not required to take any action unless he was approaching retirement. He explained that this implied there was no further action to take at this stage and that further communications would be sent.
13. On 17 April 2018, five months after Mr D appealed the decision, the Trustee responded and confirmed that its position had not changed. The Trustee also apologised for the time taken to address his complaint explaining that the Trustee’s secretary had been absent from work for several months.

Adjudicator’s Opinion

14. Mr D’s complaint was considered by one of our Adjudicators who concluded that further action was required by the Trustee. The Adjudicator’s findings are summarised below:-

- The letter sent to Mr D, in May 2010, made it clear that Lifestyling would automatically occur when he turned 54. As Mr D was 51 when he received the letter, it is reasonable to assume that he would have considered the information provided, but unfortunately, he did not take account of what might occur when he began approaching retirement with regard to automatic Lifestyling.
 - So, although, Mr D was correct in his assumption that he was not immediately affected and that he need not do anything immediately upon receiving the letter, as he was not approaching retirement at the time, it would have been prudent for him to have read the announcement more carefully. If he had done so Mr D would have been fully aware that Lifestyling would automatically occur from age 54.
 - There were two periods of excessive delays caused by the Trustee's delay in responding to Mr D's complaint, and this amounts to maladministration. There was an initial period of delay of eleven months and this was followed by a second period of five months. In both responses to Mr D, the Trustee acknowledged and apologised for the delays in the handling of his complaint.
 - It was reasonable to expect the Trustee to have issued a response to Mr D within four months. The first response was only issued after Mr D again contacted the Trustee. The Trustee should have responded to Mr D's complaint sooner and it appears that it only responded as a result of a phone call from him. Mr D was subject to further delays and inconvenience after appealing the first decision and he had to wait a further five months to receive another response.
 - The Adjudicator suggested that the Trustee should award £500 to Mr D in recognition of the significant distress and inconvenience caused by its excessive delays in responding to Mr D's complaint.
15. Mr D did not accept the Adjudicator's Opinion and the complaint was passed to me to consider. Mr D 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 D for completeness.

Ombudsman's decision

16. Mr D maintains that Lifestyling should not have proceeded without further notification from Trustees. However, I find that the Trustee has fulfilled its obligations in providing Mr D with sufficient information to make it clear that Lifestyling would occur automatically.
17. I agree that Mr D faced excessive delays when trying to resolve his complaint with the Trustees, and that the Trustees should have responded to Mr D's initial complaint much earlier.
18. Therefore, I partly uphold Mr D's complaint.

PO-22446

Directions

19. Within 21 days of the date of this Determination, the Trustee shall pay Mr D £500 in recognition of the significant distress and inconvenience which he has suffered caused by the delay in responding to his complaint.

Anthony Arter

Pensions Ombudsman
12 February 2019