

Ombudsman's Determination

Applicant	Mr L
Scheme	PX Limited Group Pension Plan (the Plan)
Respondent	Legal & General Assurance Society Limited (L&G)

Outcome

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

Complaint summary

2. Mr L has complained about L&G's decision to close two of the funds into which he had invested his pension benefits.

Background information, including submissions from the parties

3. 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.
4. On 25 July 2018, L&G sent Mr L a letter (**the July Letter**) which said that it was making three changes to the Plan. L&G said:-
 - Some of the funds that Mr L held would be closed and his investments would move to alternative funds.
 - All funds would now be managed by Legal & General Assurance (Pensions Management) Limited (PMC).
 - All funds would use the latest investment platform technology.
5. L&G also said that:-
 - The changes would help it administer Mr L's pension in the most efficient way and provide Mr L with the best possible long-term value for money.
 - In selecting alternative funds, it had chosen funds that invested in similar assets, invested in a corresponding sector, and where possible had a similar or lower charge than his current fund.

- When the funds that were due to close switched to the alternative funds, there might be a transaction cost which would be reflected in the unit prices used to calculate the value of his pension pot.
 - The changes would start in late October 2018 and would be completed by late December 2018.
 - Details of the affected funds could be found on the website.
6. In October 2018, Mr L telephoned L&G to raise a complaint based on the July Letter. He said that he was unhappy that two of the funds that he had invested in were closing (**the Funds**). In addition, he was not satisfied with the alternative funds and wanted to remain invested in the Funds.
7. During this telephone call, L&G said there would be no transaction costs when moving the Funds to the alternative funds.
8. On 19 October 2018, L&G responded to the complaint and said that:-
- The Funds, that were closing, were too specialised for the majority of its customers. As a result, it had looked for more general funds to suit all customers.
 - It sought independent investment advice before closing the Funds and picking the best alternatives.
 - It would not allow Mr L to remain invested in the Funds and would not look to change the alternative funds.
9. Mr L remained dissatisfied with the outcome of the complaint and raised further concerns with L&G. Mr L requested evidence that the Funds had been managed and not neglected over the last two years.
10. In response, L&G provided Mr L with the factsheets which showed the performance and history of the Funds. L&G said that the factsheets for the alternative funds were not currently available as they were new to L&G.
11. On 14 November 2018, Mr L telephoned L&G to raise a further complaint. Mr L said that L&G's response did not include sufficient technical information. At that time, he was at a financial loss compared to when he first selected the investment. As a result, he would have to work a further six years to recoup the loss.
12. On 4 December 2018, L&G responded to the complaint and said that it apologised that Mr L had seen a decrease in his fund value. However, Mr L's fund value was not guaranteed and would fluctuate based on market performance. It suggested that Mr L seek independent financial advice when selecting new funds. In response to Mr L's fund management queries, it confirmed that it reviewed all funds on a regular basis by performing:-
- Annual due diligence procedures, which included identifying any areas of concern.

- Quarterly reviews of each fund.
- Seeking independent investment advice for all available funds.

Mr L's position

13. L&G incorrectly informed him that transaction costs would not be applied when the Funds moved to the alternative funds, but they were in fact applied. This has caused him a financial loss as he was not expecting to pay these fees.
14. As a result of moving the Funds, his pension has been negatively affected financially. He estimates this has delayed his retirement by one to two years.
15. As a resolution, L&G should compensate the Plan with the difference between the price he purchased the Funds and the price they were sold at. The amount should include the charges incurred during the period and interest should be applied to the final amount.
16. The small amount of information available on the alternative funds meant he could not make an informed decision.
17. As far as he can see, the Funds are still available.

L&G's position

18. When Mr L raised his complaint in October 2018, he was incorrectly told that transaction costs would not be applied.
19. The terms and conditions of the Plan can be found in the Member's booklet. This confirms that transaction costs may be applied. The relevant section states:

"We don't charge for switching your investment funds and there is no limit to the number of times you can do it, but this may change in the future. See 'Our right to make changes to the terms and conditions' on page 22 for more information. You should be aware, however, that transactions costs may be applied."
20. In relation to permitted investments, the Member's booklet states:

"From time to time we may add or remove investments from the permitted investment schedule."
21. When closing funds, the Member's booklet states:

"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."
22. The Member's booklet states that any members that are not happy with any changes, can transfer their benefits to another pension provider.

23. Under its responsibilities, the Member's booklet states:

"We are not responsible for the performance of your pension. We cannot guarantee the performance of the investments made through the scheme or held by you in a self-invested arrangement and we are not responsible for any loss you may suffer."

24. In 2019, after Mr L complained to The Pensions Ombudsman (TPO), L&G offered Mr L £250 compensation for verbally misinforming him that no transaction costs would apply. Mr L did not accept the offer.

Adjudicator's Opinion

25. Mr L'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 detailed below:-

- The Member's booklet stated that L&G could add or remove investments from the permitted investment schedule at any time. As the terms and conditions allowed L&G to remove the Funds, it follows that there had not been any maladministration.
- L&G informed Mr L that there would not be any transaction costs applied when the Funds moved to the alternative funds. L&G had confirmed that this was incorrect and that transaction costs applied. Mr L argued that this misinformation had caused him a financial loss as he unexpectedly had to pay the transaction costs.
- While there was an error, the Adjudicator disagreed that this had caused Mr L a financial loss. Mr L should have reasonably been aware that transactions costs might apply for two reasons. Firstly, the July Letter stated that transaction costs might apply when the Funds were moved. Secondly, the Member's booklet confirmed that when switching investments, transaction costs might apply. As Mr L received conflicting information, it would have been reasonable for Mr L to question whether transaction costs would apply.
- Mr L argued that L&G failed to provide him with sufficient investment information regarding the alternative funds. When a fund closes, the terms and conditions listed four actions that L&G was required to take. These were to: provide three months' notice, detail the changes, provide the options available and state what would happen if the change was not accepted. It was the Adjudicator's view that L&G satisfied these requirements.
- While Mr L wanted more detailed investment information, L&G had no requirement to provide this. However, Mr L did have the option of seeking independent financial advice. It was reasonable to assume that a qualified financial adviser would have been able to provide Mr L with the additional information he was seeking. Further, as confirmed in the Member's booklet, Mr L had the option of opting out of the changes and transferring his benefits to a new provider. Mr L stated that the Funds were still available for investment through

other platforms. So, Mr L could have explored the possibility of a transfer to an alternative provider that offered the Funds.

26. Mr L did not accept the Adjudicator's Opinion and the complaint was passed to me to consider. Mr L provided his further comments which do not change the outcome. I agree with the Adjudicator's Opinion and note the additional points raised by Mr L.

Ombudsman's decision

27. Mr L says that just the fact that L&G said no charges would be incurred and then they were, was blatantly misleading. L&G offered him £250 as compensation, which he refused. Why would it make such an offer if it did not think it had done something wrong?
28. It is not disputed that L&G verbally misinformed Mr L that there would be no transaction costs when moving the Funds to the alternative funds.
29. But for me to uphold a complaint, it is not simply the case that I must identify maladministration; I must also be satisfied that the individual has, as a result, sustained injustice. Injustice may be financial and/or non-financial.
30. In the first letter L&G sent Mr L in relation to the changes to the Plan, it stated that transaction costs may be applicable. Moreover, the terms and conditions of the Plan state that transaction costs may be applied when moving funds.
31. So, I agree with the Adjudicator that Mr L should have been reasonably aware that transaction costs may be applied. More importantly, the fact that transaction costs were applied does not amount to maladministration as the possibility was allowed for in the Plan's terms and conditions.
32. L&G has offered Mr L £250 for verbally misleading him that transaction costs would not apply. My awards for non-financial injustice start at £500 for significant distress and inconvenience. I do not consider that the threshold for an award of £500 is passed. If Mr L now wants to accept L&G's offer of £250, he should contact L&G directly.
33. Mr L says that L&G did not make the change of funds fairly. But the Plan's terms and conditions are clear that L&G may add or remove investments and may close funds and that members may opt out of the change and make their own investment decisions / transfer to another pension provider.
34. I do not uphold Mr L's complaint.

Anthony Arter

Pensions Ombudsman
30 May 2022