DRN-4514013

The complaint

Mr F complains that poor service from Sanlam Investments UK Limited when he wanted to take benefits from his personal pension resulted in a financial loss.

What happened

Mr F had a personal pension with Sanlam Investments UK Limited ("Sanlam") split into four sub-accounts (ending *SI01-SI04), invested in the Atomos defensive fund. The policy was originally set up by a Sanlam adviser with a maturity date of age 65 in March 2022. Mr F didn't act on Sanlam's retirement options (or "nudge") pack sent in September 2021, six-months before he was due to turn 65, or the subsequent reminders, as he thought Sanlam knew he intended to retire at 66.

In 2023 Mr F started planning for his retirement and was thinking about taking 25% of the plan as a tax-free lump sum. But wasn't sure whether to purchase an annuity with the balance, or transfer to a drawdown plan to take income more flexibly. Mr F's Sanlam adviser had retired, and Sanlam no longer offered an advisory service, so Mr F needed a new financial adviser. In May 2023 he signed a letter of authority ("LOA") for a firm of financial advisers I'll refer to as "FI". On 16 June 2023 Sanlam issued a retirement options pack and recommended that before proceeding Mr F speak to the free "*Pensionwise*" service, or a financial adviser, and included a form he needed to sign and return as a first step.

Mr F called Sanlam on 21 June to ask for information about his plan, and in this call he discovered the nudge pack had been sent to FI instead of to him. So a duplicate was sent to Mr F on 23 June. Sanlam told Mr F that whatever option he chose, he'd first need to complete and return the *Pensionwise* form. Mr F said he'd been told by *Pensionwise* that consulting them was optional, which the agent agreed it was. But if Mr F wanted to opt out, they still need the completed form for their records, on receipt of which they could send him the annuity questionnaire, or he could complete one on the Moneyhelper website if he preferred. On 26 June 2023 Mr F called Sanlam to chase up the annuity questionnaire he was expecting and was told they were still waiting for him to return the Pensionwise form. He wanted annuity quotes but was also considering flexi-access drawdown ("FAD") so that the funds remained invested.

Mr F then consulted another financial adviser I'll refer to as "T", about FAD, but was concerned about the fees. Sanlam sent Mr F an annuity questionnaire, and again recommended he speak to Pensionwise, or a financial adviser before making his decision. Mr F and his wife completed and signed the annuity questionnaire on 27 June. Around this time Mr F signed a LOA for a third financial adviser I'll refer to as "H".
On 28 June 2023 Mr F made a formal complaint to Sanlam saying he had lost confidence in their service, as they hadn't provided him the information he needed to make an informed decision.

On 7 July 2023 Sanlam received instructions from T via the electronic "*Origo Options*" system, to transfer the funds in cash, so they started the process of selling down his units. On 10 and 11 July 2023 Mr F called and emailed Sanlam several times with conflicting instructions about what he wanted to do, and whether the transfer to T was to proceed or not and was clear they shouldn't act on any instructions from FI. But he'd been told by T there might be compliance issues with the transfer, and he felt very nervous as the value of his policy was falling. The call handler confirmed the current value was around £248,149. Mr F acknowledged he really needed financial advice about what to do, but he was concerned about how much it might cost, particularly now he'd retired so was no longer paying into the policy. Sanlam said he didn't need to transfer to take benefits flexibly, he could release the tax-free lump sum and then purchase an annuity or go into a drawdown plan. And this option still enabled him to purchase an annuity later if he wanted to, although they recommended he shop around, as Sanlam's annuity rates aren't the most competitive. To proceed, he'd just need to confirm he'd had an appointment with Pensionwise, and then provide his written instructions. Mr F decided to put the transfer to T on hold while he thought more about it. But Sanlam warned him that even if they managed to stop the transfer, it might be too late to prevent his units being sold. But if that happened, he could give instructions to reinvest the funds, otherwise they'd simply remain in cash. Mr F called back to say he'd spoken to T and got the problems ironed out, so the transfer was going ahead, which he agreed to confirm by email.

On 13 July 2023 Mr F emailed Sanlam to ask when it would respond to his complaint, explaining his loss of confidence was the reason he was transferring to T. He wanted to know why his plan value had fallen from £251,000 to £248,000 after he had requested the transfer. An annuity broker had questioned the benefit of moving to T if Mr F intended to purchase an annuity in January, so he wanted to cancel the transfer again, and was thinking about a FAD plan with Sanlam. Sanlam explained their response timescales had been set out in their complaint acknowledgment and reminded Mr F the transfer to T had been stopped on his instructions, but as expected it hadn't been possible to prevent the funds being disinvested. Sanlam attached the form Mr F needed to complete if he wished to take his 25% tax-free lump sum and move to a Sanlam FAD plan and explained they could reinvest his funds as they were, but if he wanted different investments he'd have to engage a financial adviser.

Mr F contacted Sanlam several times more over the next few days by phone and email complaining it hadn't been helpful to him and failed to provide the information he'd requested. He said Sanlam had "*muddied the waters*" by sending information to FI instead of him, and that while he'd consulted various firms he didn't consider he'd had a financial adviser since his original Sanlam adviser had retired. As his funds were in cash, Mr F said he didn't want standard information, he required a personalised letter within five days detailing his options, implications and charges so he could decide what to do. He also asked if the four plans could be combined into one to make it easier to manage.

On 18 July Sanlam confirmed Mr F's plan had to remain as four separate sub-accounts, but this wouldn't disadvantage him in terms of the charges. As his policies had been encashed, Mr F was only liable for the 0.4% annual account charge, capped at £425. It also explained FAD didn't attract additional charges, and to proceed he needed to complete the Pensionwise form which had previously been emailed. On 19 July Mr F said he wanted to put things on hold for now and requested access to the Sanlam Investment Pathways tool. But he wanted to know how his policy could've fallen to just under £248,277 when it was invested in a defensive portfolio. Sanlam sent Mr F a letter which included a risk warnings and investment pathways form he needed to complete first. On 24 July Mr F said he couldn't proceed until he understood the investment choices available to him. Sanlam explained the options were set out in the form he'd been sent, but they were unable to provide investment advice. On the same day Sanlam received the signed LOA from H.

On 28 July Mr F asked if Sanlam offered options other than the Atomos model portfolios which he thought had underperformed. Sanlam explained his plan was currently 100% in cash, but he wasn't limited to investing as it had been before. Mr F thought his plan value should be reinstated to £251,500, and on 31 July raised additional queries around FAD charges. Sanlam responded on 2 August, reminding Mr F it couldn't provide financial advice.

On 14 August Mr F appointed new financial advisers I'll refer to as "B". On 15 August 2023 Sanlam issued its final response to Mr F's complaint, acknowledging it hadn't responded to H's information request received on 29 June until 24 July due to high volumes of work. Sanlam didn't think it had provided poor service overall and had done as much as it could to assist Mr F with the "*many twists and turns"* of his decision about taking benefits from his pension. And it didn't uphold the complaint point about the valuation, explaining index-linked products can fluctuate, and that the value had unfortunately dipped at the point his funds were encashed.

Unhappy with this, Mr F referred his complaint to this service. He said the Sanlam adviser who set up the plan had retired, and he'd been told to ignore the first nudge pack as he intended to take benefits at 66, but he hadn't expected his retirement date to be reset to 75. He thought Sanlam should repay him the £3,200 his plan had fallen by, and it should provide him with "*guidance and suitability*" about the Investment Pathways options, which he considered different from financial advice. Plus an apology for the difficulties he'd experienced in dealing with Sanlam over the last couple of years.

In early September Sanlam received the LOA from B and issued a further options pack. And on 13 September Sanlam received a transfer instruction from Fidelity via the Origo system, and the funds were transferred the following day.

Sanlam sent a further complaint response in October 2023, acknowledging delays in sending information to firms H and B. To apologise Sanlam sent Mr F a hamper, which he didn't feel was adequate.

Our investigator reviewed what had happened, but he didn't uphold Mr F's complaint. He didn't think Sanlam was responsible for any loss, as it had acted on Mr F's instructions to cancel the transfer to T, but it had been too late to prevent the funds being disinvested. He said the fall in value occurred as index-linked products can fluctuate, and Mr F had chosen to retain his funds in cash until they were eventually transferred to Fidelity. So he didn't think Sanlam needed to do anything to put things right.

Mr F disagreed, pointing to a statement which showed the plan value as £251,500 prior to the transfer to T. So he asked an ombudsman to make a decision.

What I've decided – and why

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

I've listened to the various calls between Mr F and Sanlam in May, June and July 2023, and reviewed the email correspondence around that time. Having done so I've come to the same conclusion as the investigator for broadly the same reasons. Let me explain.

The decision to take benefits from a pension is an important one, which is why consumers are recommended to consult *Pensionwise,* a free, impartial service, or a financial adviser (whose professional services are chargeable). It seems to me Mr F felt very unsure about how he should best take benefits from his plan but was put off by the fees for the professional financial advice he recognised he needed.

Mr F's plan was adviser-based and was set up with a standard maturity date of his 65th birthday in March 2023, but the adviser apparently knew Mr F intended to take benefits at age 66 to coincide with his retirement from work. When Mr F didn't respond to the first nudge pack, Sanlam deferred the retirement date on the policy to age 75 but made clear he could take benefits at any time until then. I think the nudge packs were sent to fulfil Sanlam's responsibility of ensuring Mr F was aware that the policy was due to mature and encourage him to start thinking about his retirement plans.

Originally Sanlam offered an advisory service as well as being a product provider, and while in the May call Mr F referred to Sanlam as being in his mind "*still all one business*", that was no longer the case. In April 2022 the advisory and product provider arms had been sold to two different businesses, so are now distinct legal and regulatory entities. The advisory business, Sanlam Wealth Planning, through which Mr F started his policy, is now owned by Oaktree Capital (and is known as Atomos), and Sanlam Life & Pensions is now owned by Chesnara PLC, which took a commercial decision to close to new business. And while it can provide information and explain the process and options for taking benefits, it can't help someone decide what to do, as it's not permitted to give financial advice. Mr F had been paying fees (of around £1,750 per year) for Sanlam to invest and manage his funds, but this didn't cover financial advice. The fees were confirmed in a call on 16 June 2023 as a product charge of 0.4%, DFM charge of 0.25% and a fund charge of 0.14%, but the adviser charges were zero. And the fees reduced further once his funds were disinvested.

Mr F has clearly wrestled with his decision, but I'm satisfied he was told on several occasions that the first step was to complete and return the Pensionwise form which was sent with the options pack in June 2023. This was the case whether Mr F consulted the free government Pensionwise service or a firm of financial advisers, and if he decided to opt out of advice, he'd still need to complete the form with his reasons before Sanlam could comply with his requests for information. Sanlam was consistent about this throughout, so I can't agree with Mr F it was unhelpful or messed him about, as it seems he continued to request information without returning the form.

To help him decide what to do, Mr F consulted four financial adviser firms, which I've referred to as FI, H, T and B, plus an annuity broker. There was a slight delay when Sanlam sent the pack to FI instead of to him, although I think it was reasonable for them to act on the LOA Mr F had signed. But this was quickly resolved, and a duplicate pack was sent to Mr F on 23 June. Although T requested the funds in July via the Origo system prior to Mr F changing his mind, as far as I can see none of the firms went as far as actually providing Mr F with a recommendation, other than B which arranged the transfer to Fidelity in September. It seems once Mr F had retired and needed to rely on the pension he'd saved, he was alarmed by the advice fee he'd need to pay, which is typically based on a percentage of the funds being transferred. I think even if Sanlam hadn't sold off its advisory business, any fees he'd previously been paying for annual reviews and so on, wouldn't cover pension transfer advice, which is a highly regulated area, requiring particular professional qualifications. I think this is what was meant when Mr F was told by T there might be "*compliance issues*" with his request to transfer to a drawdown plan.

On 10 and 11 July Mr F was clear he didn't want Sanlam to act on instructions from FI which he worried they might receive "*by the back door*". But in relation to the transfer to T, he changed his mind back and forth several times about whether to proceed, and I can't agree with him that Sanlam wasn't helpful here. It was made clear to Mr F that even if the transfer could be stopped, it might be too late to prevent the funds being disinvested as that process might have started. Mr F had seen his plan fall in value from a peak of around £271,00 to around £251,000 and was concerned it might fall further, and in one call on 11 July he was told it had fallen slightly to £248,149, and while a defensive portfolio reduces risk, it's not completely immune from market volatility, So although Mr F thinks Sanlam should honour the higher value, I'm satisfied at the time he was aware his plan could fluctuate, he'd been given an updated value and knew it might be too late to stop the funds being disinvested. Sanlam said it could arrange to reinvest his funds as before, but if Mr F wanted to change the investments he'd need a financial adviser. Otherwise his funds would remain in cash, as they did until the transfer to Fidelity in September. Disinvesting to cash crystalised Mr F's loss and failing to reinvest meant he potentially lost two months growth, but his funds were also protected from further volatility. Either way I can't hold Sanlam responsible for Mr F's plan being disinvested and remaining in cash, as it acted on his instructions.

Mr F said he understood Sanlam couldn't give financial advice but complained that they wouldn't provide "*guidance"* or help when he asked their opinion about whether an annuity or FAD was best, whether a 5% annuity offering annual income of £12,700 was a good deal, or what "*an average person*" in his situation usually did. In one call on 11 July the call handler said he couldn't comment when Mr F wasn't sure if a balanced portfolio with T was riskier than his existing Atomos defensive portfolio and reminded Mr F his funds were in cash. On each occasion the Sanlam call handers provided Mr F with factual information about his options, but were clear they cannot give advice, steering him towards Pensionwise or a financial adviser, which is what I'd expect, as they aren't permitted to say anything which might be construed as advice. The same applied when Mr F requested a personalised letter setting out the implications and charges for his options rather than generic information, as a tailored response could stray into financial advice.

Overall I can't agree Sanlam provided a poor service to Mr F. I think the call handlers were patient and helpful and did their best to respond to his queries within the strict parameters of providing factual information. I think the main reason for it taking almost six months for Mr F to access his pension was his indecision about what to do, and his reluctance to take financial advice due to the costs involved. Sanlam has admitted it sent the initial nudge pack to FI rather than to Mr F himself and didn't respond to H's information request as quickly as it should. But I don't consider these delays caused Mr F a financial loss either.

My final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr F to accept or reject my decision before 7 February 2024.

Sarah Milne
Ombudsman