DRN-4288541

Financial Ombudsman Service

The complaint

Mr S complains that Legal and General Assurance Society Limited didn't manage the funds in his pension account correctly and he's suffered financial loss as a result.

What happened

Mr S had a Worksave Pension Plan with L&G. The plan had been invested in the L&G Multi-Asset/Over 15 Year Gilts 10 Year Lifestyle Profile (the Lifestyle Profile). Under the terms of the Lifestyle Profile L&G said it would gradually move the savings in his pension pot into less risky assets to reduce the likelihood of a sudden fall in value due to stock market fluctuations (a process known as "de-risking"). It said it would do this over the ten year period prior to the date Mr S had selected for retirement.

In May 2022 L&G wrote to Mr S to inform him that it had decided to close the Lifestyle Profile. It said it would move all of Mr S's savings from the Lifestyle Profile and invest them in the L&G PMC Multi-Asset Fund 3 (the new fund). It said this would happen between 4 October 2022 and 18 October 2022.

Mr S says he did not receive this letter. But he thinks the fact that L&G decided to close the Lifestyle Profile is evidence that it had identified a concern with how the fund was performing. In light of that he says L&G shouldn't have delayed taking action for over six months.

Mr S says his pension fund was worth around £152,000 in January 2022. When he received his benefit statement for January 2023 the fund had fallen in value by over £26,000. Mr S says he was shocked by this fall since he was approaching his selected retirement age. He'd expected L&G to be managing his fund in a safe haven, in line with what it had told him would happen in the last ten years before he retired. Mr S says that the fall in value of his savings in such a short period of time, and so close to his intended retirement date, is evidence that his fund has not been managed correctly or in the way that L&G said it would do. Mr S says he's had to change his retirement age as result of what happened. He complained to L&G.

L&G investigated his complaint. It said it had gradually moved his pension fund into lower risk funds in the period after October 2016. It had made the decision to close the Lifestyle Profile and had written to Mr S in May 2022 to inform him about this. The reason for its decision was because it said the Lifestyle Profile was designed for customers who were likely to use their pension pot to buy a guaranteed lifetime income (an annuity). However, it said that most consumers were now less likely to choose that option. For that reason it didn't feel the Lifestyle Profile was a suitable default investment option. It hadn't made this change right away because it wanted to give customers time to choose alternative investments should they wish.

L&G said it was Mr S's own responsibility to move his investments and make changes if he thought that was necessary. L&G said it did not actively manage his pension fund. It said that the reason for the fall in value of his pension fund was not something that it could have foreseen and was due to unprecedented market conditions. It said that in 2021 and 2022 gilt and bond prices had been more volatile than usual and had fallen significantly.

Mr S didn't agree. He referred his complaint to our service. Our investigator looked into his complaint. He said that although the asset allocation had changed in October 2022, the spread of investment in the new fund was very similar to that of the Lifestyle Profile. The value of gilts had fallen dramatically during 2022 and that would have contributed to the decrease in the value of Mr S's pension fund. However, he didn't think L&G could be held responsible for market fluctuations that were beyond its control. He didn't think L&G had guaranteed a "no-loss" scenario." Our investigator also thought L&G had acted fairly when it decided to close the Lifestyle Profile and switch Mr S's funds into the new fund.

Mr S didn't agree. He said, by way of summary:

- He'd been told repeatedly that this was a "managed fund." L&G charged a fee.
- L&G should have moved his funds to a more secure investment as he got closer to his selected retirement date and it hadn't done that. He felt his funds had been left subject to high risk and volatile exposure.
- L&G had identified the risk early in 2022 and had swapped asset allocation. However it hadn't taken action for over six months and hadn't properly mitigated the risks. When it took action a significant part of the loss had already been incurred.

Our investigator didn't change his view. So, the complaint has been passed to me to decide.

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.

The Lifestyle Profile
I can understand why Mr S was concerned that the value of his pension fund had fallen significantly in 2022. He thinks that L&G should have been managing his fund so that it was invested in less risky assets as he approached his retirement age. He thinks if it had done that then the value wouldn't have fallen by as much.

I've considered the information L&G provided to Mr S about his pension plan. He was told that ten years before his selected retirement age L&G would start to move his savings into less risky assets to reduce the likelihood of a sudden fall in value due to stock market fluctuations. It said that this process was known as "de-risking" and was designed primarily for those planning to purchase an annuity or for those consumers who required a degree of certainty if they planned to take their pot as cash in one go. He was also told that if he thought the Lifestyle Profile was not consistent with his plans for how and when he planned to take his pension savings he may want to consider other funds available. He was given details of how he could manage his account online and told that he could also see information there about other available fund options.

Mr S says he was paying L&G an annual fee and he expected it to be managing his funds.

I've looked at the Pension Benefit statement dated January 2023. It indicates that Mr S was being charged a fee "for the cost of running your plan" and a fee "for managing your pension investments."

Whilst it is the case that the fee Mr S was paying to L&G was described as a management fee, L&G did not provide Mr S with active investment management services. The Lifestyle Profile did not offer that type of service. That's why his annual benefit statements said he should regularly review his investment strategy to ensure it was still suitable for his needs. It also referred him to the ‘Manage Your Account’ webpages where further information about the funds available could be found. L&G didn’t offer advice about whether the Lifestyle Profile was suitable for his needs.

The Lifestyle Profile did include the provisions I’ve referred to above concerning what happened ten years prior to the selected retirement date. So, I think it’s fair to say that the Lifestyle Profile was managed to the extent that L&G gradually moved Mr S’s savings into less risky assets in the ten year period prior to his selected retirement date. That happened automatically.

I’ve looked at what happened to his investments in the period starting ten years prior to his selected retirement date to see if L&G did make the changes to his investments that it said it would.

L&G has provided information which shows that with the Lifestyle Profile Mr S’s funds were initially invested in L&G (PMC) Multi-Asset Fund 3. Ten years prior to his retirement date L&G gradually changed the fund make up so that by the time he would reach his retirement date 75% of the fund would be invested in the Over 15 Years Gilt Index Fund 3 and the remainder was invested in the L&G PMC Cash Fund 3.

Information about how his funds were invested was available to Mr S on his annual benefit statements. So, for example the annual benefit statement dated 13 January 2022 indicated that, at that time, (which was just under five years before his selected retirement date) his fund was made up as follows:

47.76% Multi Asset 3
38.45% Over 15 Year Gilts Index 3
13.79% Cash 3

So, I’m satisfied, on balance, that L&G was managing the Lifestyle Profile in the way it had indicated it would do.

Despite that, it is the case that the overall value of Mr S’s pension fund fell in 2022. L&G set out in its final response letter the various reasons why that had happened. It explained that there’d been uncertainty in global equity markets which meant that gilt and bond funds in 2021 and 2022 had been more volatile than usual and had fallen significantly. It also mentioned the impact of rising interest rates, inflation, war in Ukraine and government policy changes which it said had significant and widespread impacts.

Although the fall in the value of his pension fund has been disappointing for Mr S, I think the explanation L&G has provided for why that happened is reasonable. When reaching that view I’ve also considered the information in the Lifestyle Profile fact sheet. It set out the advantages and disadvantages of this arrangement and explained that although the Lifestyle Profile was designed to reduce investment volatility as the consumer approached retirement age - that didn’t mean the value of the pension fund was guaranteed. As Mr S acknowledges, he was aware the fund value could go down as well as up. That was the case despite the fact that L&G had been de-risking his investments in the way it said it would do.

So, having considered everything about how the Lifestyle Profile was being managed, I don’t think it’s fair and reasonable to say that L&G should be held responsible for market fluctuations that were outside its control.

L&G’s decision to close the Lifestyle Profile and switch Mr S’s investments into the new fund

L&G decided in May 2022 to close the Lifestyle Profile. Mr S has made several points about this decision and its implementation which I'll comment on below:

- *He says he didn't receive the letter informing him about L&G's decision to close the Lifestyle Profile*

L&G says it issued a letter addressed to Mr S at the address it held for him on its records in May 2022. It says this was sent as part of a project. L&G has provided a sample of the letter. It appears from what Mr S has told us that L&G may also (or alternatively) have issued an email addressed to him about this change – which he says went into his SPAM account.

Although Mr S says he didn't receive this letter, L&G says it sent the letter to the address held on its records. So, I don't think it's fair or reasonable to say that L&G did anything wrong when it did that. I've also looked at the copy of the email Mr S says he was sent dated 30 May 2022. It appears to have been sent to his correct email address. I note he says it went to his SPAM account. However, again I don't think L&G can be held responsible for that – given it used the correct email address. I'm satisfied, on balance, L&G made a reasonable attempt to try to contact Mr S to inform him about the proposed changes.

Mr S has also referred to the fact that neither the letter nor email appear on his online archive of correspondence. L&G says the letter was sent out as part of a wider project and that's why copies weren't available within customer's online records. I'd just comment that it's not unusual where correspondence has been sent as part of a wider project for it not to be recorded on an individual's online archive. So, although I'm uncertain why Mr S didn't receive the letter or why the email went to his SPAM account, as I've stated above, I don't think that was because of an error made by L&G.

- *L&G decided to close the Lifestyle Profile because it was concerned about how the fund was performing*

Mr S says the reason why L&G decided to close the Lifestyle Profile was because of the way that it was performing. However, that's not the reason which L&G provided in the letter it sent.

L&G said the reason why it had decided to close the Lifestyle Profile was because it had been designed for customers who did not want to make an investment decision and were likely to use their pension pot to buy a guaranteed lifetime income and take some tax free cash. The fund value was expected to rise and fall in line with the price of an annuity.

L&G said it was now the case, as a result of changes in legislation which offered more freedom in how pension savings were taken, that its customers were much less likely to buy an annuity when they retired. Because of that it was closing the Lifestyle Profile and offering the new fund which aimed to provide growth up to and into retirement. Savings would no longer be automatically moved into a fund designed to protect against the price of annuities in the ten year period prior to retirement.

Having considered the explanation L&G provided for its decision, I think it was reasonable. I haven't seen anything to support what Mr S has said about why he thinks the Lifestyle Profile was being closed. And, on balance, I'm persuaded that L&G made the decision to close the Lifestyle Profile for the reasons it set out in its letter.

The letter also explained that if Mr S wasn't happy with the proposed change he could contact it.

- *L&G unreasonably delayed closing the Lifestyle Profile for over 6 months*

The decision to close the Lifestyle Profile was communicated to customers in May 2022. Mr S thinks L&G then unreasonably delayed closing the Lifestyle Profile until October 2022. He says it should have closed the Lifestyle Profile and moved his investments into the new fund much earlier.

I've thought about what Mr S has said here. But having done so, I'm not persuaded that L&G acted unfairly or unreasonably when it waited until October to move his investments.

The letter, sent in May, stated that the switch to the new fund would happen between 4 October and 18 October 2022. L&G was obliged to give customers notice before it made a change of this nature.

The Member's Booklet for the Worksave Pension Plan provides details about various notice periods that applied to changes that could be made. For example, I've noted that L&G was able to change the range of lifestyle profiles available. It said it would give 60 days' notice before making such a change. It also was able to close a fund in certain circumstances and if that happened it said it would give its customers 3 months' notice. In each case customers would have the right to opt out of the changes.

So, the terms and conditions permitted L&G to make changes to the Lifestyle Profile and required it to give certain periods of notice. Nevertheless, Mr S says L&G didn't have to wait for almost six months before it made the change.

L&G says it provided adequate notice to allow Mr S, should he have wanted, to switch his investments to an alternative fund other than the new fund. It said it also recommended that customers seek independent financial advice regarding investments if they're unsure. In these circumstances it thought it was fair and reasonable to wait until October (just over four months after it issued the letter) to allow customers to take whatever action they thought might be necessary to respond to the proposed change. L&G also said it decided to wait until October, because of market volatility, and it needed to ensure that the funds were in a more stable position before completing the fund closure.

Having considered the details set out in the letter and the reasoning L&G has provided for making the switch in October, I'm satisfied, on balance, that the notice period provided by L&G was fair and reasonable in all the circumstances that applied here.

Whilst I know this will disappoint Mr S, I'm not persuaded that L&G did anything wrong or that it has otherwise acted unfairly or unreasonably. So, I don't require it to have to do anything further to resolve this complaint.

My final decision

For the reasons given above I do not uphold this complaint about Legal and General Assurance Society Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 7 December 2023.

Irene Martin
Ombudsman