DRN-4553046

The complaint

Mr M complains that Link Fund Solutions Limited (Link) has committed fraud, having taken money from his private pension policy (PPP) to benefit the company.

What happened

In 1997, Mr M took out a PPP with 'Gartmore Private Pension Provider'. Over the years, Mr M's PPP was taken over by different companies. Eventually, his PPP was taken over by Link.

Mr M was scheduled to take benefits from his PPP when he turned 60 in 2019 but he was still working full-time, so he opted to postpone taking his benefits. At the time, his fund was worth around £220,000.

Mr M says that from the beginning of 2020, the investment returns on gilts and bonds started to decline. Link sold his units held in gilts and bonds very cheap. Mr M believes he lost over £70,000 due to Link's mismanagement of his pension. Mr M said Link also made changes to his PPP, detailed below, without his knowledge, consent or permission, causing him a permanent loss in value. Mr M complained to Link in November 2022 about the delays in receiving his fund value along with the lack of information regarding the change in his pension.

Link issued a final response on 24 January 2023. In summary, it said Mr M requested a current valuation of his policy on 24 October 2022 and called again on 1 and 29 November 2022, adding he had not received his annual statement from April 2022. Link said it sent Mr M a valuation on 5 December 2022, which showed the value of his pension was £180,020.95. It also acknowledged it provide an incorrect website address when it had written to Mr M on 17 January 2023. Link offered £100 compensation to apologise for the inconvenience caused.

Mr M made a further complained to Link about what had happened in April 2022 and Link issued a second final response on 16 June 2023. It said Mr M's funds were invested approximately 25% in cash and 75% in gilts to preserve his pension as he prepares to take his pension soon. The unit price of the cash fund had remained relatively stable throughout 2020 and 2022 but the value of gilts had fallen since 2022. The performance of global markets was affected the Covid-19 pandemic, the Russian invasion of Ukraine, the government's Budget of September 2022, increased energy costs, the cost-of-living crisis and rising inflation had all impacted the performance of all funds, including gilts. and explained why his pension had fallen in value. But since October 2022, the funds Mr M was invested in had achieved positive returns.

Link said it wrote to all plan holders in 2021 to outline its proposals to merge funds held within the LF Personal Pension Trust into funds in the LF Stakeholder Pension Scheme. In September 2022, Link wrote to Mr M to explain its proposals. The information sent contained a voting form for Mr M to complete because members of the merging funds needed to vote in favour of the proposals for these to become effective. The vote went ahead and, as a majority of voters were in favour of the changes, these went ahead in November 2021.

Overall, Link thought it had given Mr M an explanation of the change and an opportunity to vote on it.

Mr M had a legacy arrangement where he received an enhanced allocation rate on every contribution made. Link said its letter of September 2022 explained it was not able to continue the arrangement due to its changes of administration arrangements from Capital Life & Pensions Limited to EQ. Link said it did not require Mr M's approval to make this change. Nevertheless, it made an enhanced allocation payment in September 2022 that represented three months' worth of enhanced allocation payments prior to this arrangement ceasing in October 2022.

Link noted Mr M was unhappy he was now invested in different funds that he thought were inappropriate for him. Link said the information it sent Mr M also proposed changes that would be made to the Lifestyling options and explained how the funds would be split – it confirmed the new fund holdings in its letter of 13 October 2022. If Mr M feels the split of funds is inappropriate for him, he can switch funds.

Link went on to apologise for Mr M being told, incorrectly, that the only change happening with his pension was a change of administrator. Link said there were clearly other changes, as outlined above. Link also apologised for Mr M's dissatisfaction with its agents when he had telephoned and response times for its emails.

Since Link's final response, Mr M said he had discovered Link had stopped collecting his direct debits for his premiums. And in August 2023, Link told Mr M its entire fund range would be transferred to Waystone Management (UK) Limited. Mr M referred his complaint to our Service. Mr M said he was partially blind, and Link sent him a letter which was between 35,000 and 40,000 words in fine print, which was beyond his comprehension. To put things right, Mr M wanted a refund of every premium he had paid plus interest and compensation for ruining his retirement plans.

In the meantime, Link sent Mr M a third final response dated 7 September 2023 addressing the failure to collect his contributions. It said a system error meant it had not collected his contributions. It apologised and said its previous letter had offered Mr M £100 compensation for the inconvenience caused. It sent Mr M a payment mandate form to restart contributions. And on 12 October 2023, Waystone sent Mr M a letter giving him the option of making a one-off contribution for the missed payments but for £375 a month, rather than the £300 contributions Mr M made previously. Waystone said it would then allocate the funds as if the contributions had not ceased.

One of our Investigators began a review of Mr M's complaint. In summary, our Investigator said he was satisfied Link had written to Mr M about the proposed changes to his pension and noted Mr M had confirmed receipt of the letter. Our Investigator acknowledged Mr M's partial blindness and that he said he could not read the entire document. But our Investigator thought the warnings provided in the first three pages of the document should have given Mr M cause to consider the information contained within it. And if Mr M needed help, our Investigator thought he should have contacted Link or sought help elsewhere.

Our Investigator did not think Link made a commitment to notify Mr M of the outcome of the vote. Our Investigator noted Link said it wrote to members following the merger on 13 October 2022 to explain the changes, including information about the Lifestyle options. Our Investigator said it was for Mr M to seek advice if he was not comfortable making his own decisions about how his funds were invested – Link was not his financial adviser. Our Investigator did not uphold his aspect of Mr M's complaint.

Turning to Mr M's complaint about the performance of his fund, our Investigator explained global events had affected gilts, and investment markets generally. Whilst Mr M was concerned Link had mismanaged his pension, Link's role was not to provide Mr M with financial advice or change how his funds were invested without his instruction. Link was the platform provider and administrator of Mr M's pension and was not responsible for the performance of Mr M's funds prior to the merger or since. It was for Mr M to decide if he wanted to maintain how his fund was invested or make changes as he saw fit. Our Investigator did not uphold this aspect of Mr M's complaint.

Finally, our Investigator considered the customer service Link provided to Mr M. He noted Link had offered Mr M £100 in January 2023 for the delay in sending Mr M his statement and our Investigator thought this was fair.

Our Investigator had not seen evidence from Link to show Mr M's emails were not responded to in a timely way or that Link's agents were not able to respond to answer questions when he telephoned them. But Mr M had provided screenshots of online messages he had tried to send Link, so our Investigator thought it was likely Link had failed to communicate with Mr M in a timely manner on a number of occasions.

Our Investigator agreed with Mr M that Link has incorrectly said Mr M could make five backdated contributions of £375 per month, when he had been making contributions of £300. Our Investigator said Waystone clarified Mr M's contributions should be £300 on 23 October 2020. And on 3 November 2023, Waystone confirmed the new direct debit details and the bank details to pay the missing contributions from June 2023 to November 2023. As Waystone had offered to apply the backdated payments as if they had been paid on time, our Investigator thought its offer was fair.

Overall, our Investigator thought Link should pay Mr M an additional £100 compensation, bringing the total payable to £300. Link agreed to our Investigator's view and said it would arrange to pay Mr M £300 if Mr M accepted it. But Mr M did not accept our Investigator's view. In summary, he said he had made a request to Link under the Freedom of Information Act but not received a response. Mr M said he had not signed the forms Link sent to him and reiterated he could not read the form he was sent and had been told only the administrator of his pension was changing. Mr M said Link was responsible for ensuring the best outcome for his pension and failed in its duty of care. Mr M remained of the view Link was not entitled to transfer his PPP into a Stakeholder plan and added questions about the vote that occurred in October 2022. Mr M added it was unfair for Link to offer to backdate premiums from June to November 2022 only.

In response, our Investigator said Mr M had been told how to set up a new direct debit but had not done so, so had not recommended Link backdate any contributions missed beyond November 2023. Our Investigator explained that if Mr M had not received a response to his request for information, he could refer his concerns to the Information Commissioner's Office.

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.

Mr M has taken a lot of time to explain his complaint in detail. I want to reassure him that I've read everything he has said and thought about the points that he has raised within his complaint. I may not respond to every point. Nor will I respond in the level of detail in which Mr M has set out his complaint. I hope that Mr M realises I mean no disrespect by this – this simply reflects the informal nature of our Service. Instead, I'll respond to what I consider the key points of Mr M's complaint.

<u>The conversion of Mr M's PPP into a Stakeholder pension</u>

Link has provided a copy of a template letter it says was sent to Mr M about the proposed changes to his pension on 12 September 2022, which said:

"You should read the proposals and ensure you understand their implications. If you are eligible to vote under the terms set out in the proposals you should complete and return the enclosed Form(s)… by 3 October 2022…. If you have any questions regarding the above proposal please contact your financial adviser or our Investor Services helpline…"

Page one of the proposal was headed:

> ***"THIS DOCUMENT IS IMPORTANT AND REQUIRES YOUR IMMEDIATE ATTENTION***
>
> *If you do not understand it you should consult your stockbroker, accountant, bank manager, solicitor or other professional adviser authorised pursuant to the Financial Services and Markets Act 2000 immediately,"*

Beneath this, it says the document is the proposed scheme of arrangement for the mergers of the LF pension funds, each of which is a sub-fund in the LF Personal Pension Trust into sub-funds in LF Stakeholder Pension Scheme. Section one of the document says, in bold text, that to be passed, each Scheme must be approve the merger. The document went on to explain the reasons for its proposed changes. It also set out how the Lifestyle Profiles would work. The document also set out the following:

> *"Moving to this new scheme will result in any historic arrangements, where some investors received a rebate of costs and charges on the underlying investments, being stopped. These arrangements were additional arrangements outside of the scheme's terms and conditions and only applicable to a small number of investors. This change will apply from the date of the merger."*

Mr M has provided a copy of the 'FP4' form that was included with the letter of 12 September 2022. This is a proxy form for members of the LF UK Gilt Pension fund. He listed his name and address and dated the form on 24 September 2022. Mr M did not check either box to vote for or against the proposed merger outlined in the letter of 12 September 2022. However, Mr M did provide comments, including the following:

> *"I am <u>for</u> the merger if I can recover my present losses and <u>against</u> if the merger won't recover my losses and/or contributions to become permeant losses."*

I am satisfied he received Link's letter of 12 September 2022. Having reviewed the contents of the letter and accompanying proposals, I am satisfied Link took reasonable steps to make Mr M aware of the proposed changes in language that was clear and not misleading. I am satisfied the letter was sufficiently clear that Mr M should read the proposals contained within the document and seek help if he was unclear about what to do should he not understand it.

Mr M says he had spoken to Link and been told that the only thing changing was the administrator of the pension funds. But the information provided prominently on page one of the document, and in the following pages, sets out that the PPP will be merged into a Stakeholder Pension Scheme. I note Mr M's statement above shows he was aware of a proposed "merger". Link's document also went on to outline changes to funds. So, I think this should reasonably have made Mr M aware that the proposed changes went beyond a simple change of administrator – including the removal of historic arrangements (such as enhanced allocation rates) and changes to funds. Section 3 of the proposal set out the following:

> *"**Lifestyling Options***
>
> *Your investment in the LF Personal Pension Trust may currently be subject to a lifestyling option that spreads your investments across a range of Funds depending on the risk profile of the option you have selected. There are currently five lifestyling options in the LF Personal Pension Trust, as detailed in Table 1 below. If you are not sure if you are invested via a lifestyle profile or which one you are invested in, you can check on your most recent statement or call 0345 055 0606."*

This section went on to explain the different Lifestyle Profiles. As I have set out above, the document recommended Mr M seek help if he was unsure of what the proposals meant before signing the document. Whilst it is clearly incorrect if Mr M was told only the administrator of the pension was changing, and I do not doubt this is what he was told, this does not change my view that Link provided sufficiently clear information to Mr M prior to him signing the form on 12 September 2022. And whilst Mr M has told us he is partially blind, but I think it was Mr M's responsibility to seek help if he was unclear about the proposals and there is no evidence he did so.

Link also provided a sample copy of its letter dated 13 October 2022, which notified him that the proposed merger of his PPP into a Stakeholder plan had gone ahead. And because of the merger, Mr M could now invest in one of its three lifestyle profiles. The letter went on to explain the different stages of the lifestyle profile and that funds would be invested in lower risk funds focused on preserving capital in the 'pre-retirement' phase. The letter went on to say that if Mr M was previously invested in one of the Lifestyle profiles in his PPP, he would have been automatically switched into its 'Lifestyle Profile 1'. The letter explained this Lifestyle Profile was designed for members who plan to open a pension drawdown product with they reach their selected retirement age and has a slightly higher exposure to funds that invest in riskier assets such as equities compared to Profiles 2 or 3. Profile 2 was designed for members who plan to purchase an annuity and Profile 3 was for members who plan to withdraw cash when they reach their selected retirement age.

Mr M says the funds his Stakeholder pension is invested in are not suitable for him. As our Investigator has explained, Link was responsible for administering his pension policy but was not responsible for providing Mr M with financial advice. So, it was unable to suggest or recommend particular funds to Mr M. I think the documents outlined above were sufficiently clear about the funds Mr M would be moved into should the proposals go ahead and that he should seek advice if he needed it. I think Link made it clear Mr M had the option to switch how his funds were invested or transfer his policy elsewhere. It was for Mr M to decide if his investment choices were appropriate for him and seek advice if he was unsure.

There is nothing in the proposals that indicates Link was not entitled to make the changes it proposed to the PPP, allocate rates and funds. I think it set out clearly the conditions that must be met in order for the proposals to go ahead. Link's records indicate Mr M was given the opportunity to vote, and the majority of voters voted for the proposed changes and so they went ahead. I cannot agree with Mr M that Link did anything it was not entitled to do or failed to give him sufficient notice of its proposals. So, I do not uphold Mr M's complaint that his PPP should not have been converted into a Stakeholder pension, alter the funds he was invested in or that Link was not entitled to remove any enhanced allocation rates Mr M previously received on his contributions. So, I do not think it would be reasonable to ask Link to refund Mr M's premiums since the inception of his policy.

The performance of Mr M's fund since 2020

I understand Mr M's disappointment that his investment has not performed as he hoped. As Link and our Investigator have explained, over the period of time Mr M has complained about, unforeseeable global events meant that the value of gilts fell. Mr M's pension fund was invested in gilts during this period. Mr M's unhappiness with the performance of his investments is not, it itself, evidence of any wrongdoing by Link. And overall, I have seen no evidence to show the fall in value of Mr M's investments was a result of any error by Link. It was for Mr M to ensure his investment strategy was suitable for him, not Link. I do not think there is sufficient evidence to show Link made an error that caused the drop in value of Mr M's investments, so I have not asked Link to compensate Mr M as he has requested.

Link's failure to collect Mr M's premiums

I would first like to clarify that I am only able to consider Link's actions until the date of its last final response in September 2023. Link has since agreed to backdate any contributions missed between June and November 2023, which I think is fair. I note Link sent Mr M instructions about how to set up a new direct debit and agreed to apply backdated contributions from June to November 2023, and I cannot compel it do offer anything further as part of this complaint.

I acknowledge this matter, along with previous delays in sending Mr M information he asked for, has caused Mr M some distress and inconvenience. Whilst I recognise Mr M will likely be disappointed with my decision, I agree with our Investigator that an additional £100 compensation, bringing the total payable to £300, fairly recognises the distress and inconvenience caused by having to chase Link to sort out these errors.

My final decision

For the reasons explained above, I think Link Fund Solutions Limited should pay Mr M an additional £100 compensation. This brings the total compensation payable to £300. I think Link Fund Solutions Limited's offer to backdate Mr M's premiums from June 2023 to November 2023 is fair.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 4 March 2024.
Victoria Blackwood
Ombudsman