

## **The complaint**

Mr M complains Legal and General Assurance Society Limited (Legal and General) didn't notify him of changes on the market which led to a fall in the value of his investment. He says management fees were taken but Legal and General failed to update him and this has had a huge impact both financially and on his wellbeing. He asks to be compensated.

## **What happened**

Mr M holds a stakeholder pension plan with Legal and General which he took out in October 2007 with an assumed retirement date in May 2025.

In September 2022, Mr M received a notice from Legal and General to say he could now review his annual statements online. He wasn't able to access the system and so contacted Legal and General for a statement to be sent out.

In January 2023, Legal and General sent his annual statement by post which showed a fall in the fund value of £19,500 on the previous year's valuation.

On 14 January 2023, Mr M complained to Legal and General about the management of his pension for which management fees had been deducted. He said he hadn't been notified of losses, other than one line on the statement. Mr M said he felt incompetence and lack of communication meant he couldn't make decisions to stop or limit the loss. He went on to say he couldn't sustain such a loss on his pension.

On 18 January 2023, Legal and General issued its final response. It didn't uphold Mr M's complaint. It explained how Mr M's particular pension worked and how global events have had an impact. It said the fixed interest fund had been particularly impacted in recent years. It explained how interest rates linked to bonds and gilts work in opposite ways to annuity rates. It also said if he was unhappy with performance, he could change the funds and noted that it would strongly recommend he sought advice.

Mr M responded by email the same day. He said he understood markets change but felt very strongly that Legal and General had been poor in its management and by failing to notify him of the changes in the market, he wasn't aware so couldn't make any changes to mitigate this. Mr M felt Legal and General's negligence rendered it liable for the loss suffered. Legal and General responded to explain it couldn't make any changes to funds without Mr M's instructions to do so.

On 21 January Mr M responded by email again emphasising his point that without notification he was not in a position to be aware he should seek financial advice.

On 23 January Legal and General responded to explain its role again and reminded Mr M of his right to raise this matter with this service if he remained dissatisfied.

On 15 February 2023 Mr M brought his complaint to this service for investigation. An investigator looked into things for Mr M, in his view he agreed that in its complaint response Legal and General hadn't answered Mr M's specific complaint point. But he explained that complaint handling itself is not regulated and as such this service couldn't

address that specific issue, but he went onto say in this case he didn't think Legal and General had failed in its regulatory role. He went onto explain the role Legal and General has as the administrators of the pension scheme but that it had no responsibility to act as a monitor of the plan giving rise to providing any warnings or alerts beyond the annual statements it issued. As such, and notwithstanding, Mr M's strength of feeling on the matter he couldn't say that Legal and General had acted unfairly and so he didn't ask it to do anything further.

Mr M disagreed. He said he totally refutes the investigators view and finds it biased in favor of Legal and General rather than a balanced and fair assessment. He vividly described the effect the fall in value has had on his health and wellbeing and now feels he will have work indefinitely to secure the funds he needs for his retirement. He asks for an ombudsman review.

### **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.

Having done so I have independently reached the same view as the investigator. I appreciate this will come as a disappointment to Mr M – I'll explain why.

I'm very aware that I've summarised this complaint in far less detail than the parties and I've done so using my own words. I'm not going to respond to every single point made by all the parties involved. No discourtesy is intended by this. Instead, I've focussed on what I think are the key issues here.

Our rules allow me to do this. This simply reflects the informal nature of our service as a free alternative to the courts. If there's something I've not mentioned, it isn't because I've ignored it. I haven't. I'm satisfied I don't need to comment on every individual argument to be able to reach what I think is the right outcome. Instead, I have concentrated on what I understand to be the crux of Mr M's complaint which is that he felt Legal and General had a responsibility to warn or notify him that his fund value was falling. That he says, would have made him aware enough to seek financial advice and in not doing so, it was negligent in its duty.

Whilst I can consider complaints about investment performance, in most instances, I would need to see evidence that Legal and General had done something wrong and I can't just rely on actual or perceived poor performance. That's because, even if the fund has underperformed compared to the rest of the market, we don't usually think this proves the fund was mismanaged. Many consumers have seen the value of their pension funds fall over the last 18 months given the economic conditions not just across the UK, but wider financial markets too. So, to be clear, this isn't just a Legal and General issue, and it's something many other consumers are having to face at other businesses too.

Firstly, I think it's important to say I can understand receiving his September 2022 statement and seeing the current value must have been a shock. His pension value had fallen, in his view unexpectedly as his previous two statements had seen growth. So, I can understand this must be very worrying for him as he approaches his preferred retirement age but what I have to consider is if Legal and General acted fairly in its approach and if not what it could and should have done differently.

Both Legal and General and our investigator have explained in some detail how the Lifestyle option, which applies to Mr M's Stakeholder pension plan works. There's not an awful lot I can add other than to briefly summarise the management approach taken to this type of pension.

Stakeholder pensions are subject to pension life styling. This is, in summary, where funds gradually move into lower risk funds as the scheme member approaches their selected retirement date. But this doesn't remove all risk. The purpose is to reduce the risk of market volatility. This is something we see commonly in former workplace (Stakeholder) schemes.

As our investigator explained the fixed interest element of the life styling funds are impacted by changes in the interest rate. As interest rates rise, a fall in value is then often seen. But importantly at the same time there will typically be an increase in annuity rates. So as has been explained, although Mr M's fund value has fallen its annuity purchasing power may appreciate. This is different to a loss that might be incurred in a higher risk fund when annuity rates might be falling. So, life styling is a way to act protectively for future annuities. Obviously, that would only be beneficial if Mr M were taking a guaranteed income at his stated retirement age rather than accessing his monies flexibly.

Whilst Legal and General will have known about the impact of the markets on the funds within Mr M's stakeholder pension, it isn't regulated to provide advice. Notifying Mr M between annual statements could be seen as advice (or implied advice). It also isn't regulated to provide Mr M with an ongoing review.

The regulator sets out the timing and content of the regular statements that need to be issued to pension investors. Generally, that sort of communication needs to be issued at least once a year. I've looked carefully at the annual statements Legal and General provided. All consumers need to ensure they keep an eye on their funds, more so as retirement nears. The statements all provide clear color-coded indications of where Mr M is in his retirement journey and indicate what considerations he should be making. These include making sure the pension plan is meeting his goals and referencing Pension Wise as the first point of call. So, I'm satisfied Legal and General did provide that sort of information to Mr M and it highlighted the warnings that Mr M should review the ongoing suitability of his investments, and this can be seen as early as the September 2019 statement.

Mr M could also have telephoned Legal and General at any time, and I don't doubt they would have provided a valuation over the telephone rather than waiting for an annual statement. In addition, whilst I appreciate Mr M wasn't able to access Legal and General's online service, had he sought help to do so, he would've been able to view his monies at a time convenient to him. So, I'm afraid I can't say Legal and General have acted unfairly or unreasonably nor can I hold it responsible for a fall in value of a pension fund due to the current market conditions.

Ultimately it fell to Mr M to monitor his pension investments and seek financial advice as to the ongoing suitability of them. Only Mr M can instruct Legal and General to make changes to his portfolio if he felt it had become unsuitable for his circumstances.

So, whilst I appreciate Mr M will be disappointed and notwithstanding I understand his current worry with regard to the fund, I'm not able to uphold his complaint.

### **My final decision**

For the reasons I have given I don't uphold this complaint or make any award.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 18 September 2023.

Wendy Steele  
**Ombudsman**