DRN-4798549

The complaint

Ms B complains that Scottish Widows Limited mismanaged the investment of her pension and failed to move it to a lower risk investment environment over the last few years.

What happened

I issued my provisional decision on this complaint on 26 April 2024. The background and circumstances to the complaint and the reasons why I didn't think it should be upheld were set out in that decision. I've copied the relevant parts of it below, and it forms part of this final decision.

Copy of provisional decision

What happened

Ms B's complaint was considered by one of our investigators. He issued his assessment of it to both parties on 7 July 2023. The background and circumstances to the complaint were set out in that assessment. However to summarise, the pension was a Group Personal Pension (GPP) offered by Ms B's employer. Ms B transferred another pension into it in 2013.

During the period that the pension had been in force annual statements had been sent to Ms B. The statement sent out on 28 September 2021 showed that the plan had a value of £62,618. Ms B said she'd discussed her pension with her adviser who explained that Scottish Widows had, in accordance with its lifestyle strategy, been moving more of her pension from her original fund choices into the Pension Protector fund. And as she was getting closer to her selected retirement age, Scottish Widows would move all of the pension into the Pension Protector fund so that it would be 'protected' from any major drops in the stock market before she retired.

Following another discussion with her adviser on 25 January 2023 Ms B discovered that her pension had a value of £46,914. She complained to Scottish Widows about the mismanagement of her pension, and it was subsequently referred to us.

The investigator said the 'Pension Investment Approach' selected in 2013 was the 'Balanced Pension Approach'. This initially meant being invested in two funds - Pension Portfolios 3 and 4. The investigator said the original application form which was signed and dated 21 November 2013 explained that:

'As you get closer to your selected pension age, we will automatically gradually adjust and move your pension fund into lower risk investment funds. You can choose to stop the gradual adjustments, or even change your investment choice, at any time'.

The investigator also referred to annual statements that Ms B would have received which said:

"You can choose where you would like your plan to be invested. You should bear in mind that the value of your investment can go down as well as up and could fall below the

amounts paid in. As you're getting close to your retirement age you should review your investment strategy to make sure it's in line with your plans for retirement especially if you are considering deferring your retirement."

The investigator was satisfied that Scottish Widows had the authority to switch the assets within Ms B's pension. He said the investment strategy was set at the outset and known as a lifestyle fund. This meant the pension was initially invested for growth and mainly invested in equities. However as the pension member got closer to their selected retirement age, a higher percentage of the pension was invested into lower risk funds – for example corporate bonds or gilts. He said the aim of lifestyle funds was to preserve the pension's value when the member came to take their benefits. However, he said there were no guarantees, and even with lower risk investments the pension could still fall in value. He thought Scottish Widows had alerted Ms B that that the value of the funds could fall and that she had the option to change investment strategy at any time.

The investigator noted that Ms B had said her complaint wasn't that the funds had underperformed, but that Scottish Widows had been negligent or at best had mismanaged the strategy. The investigator said the strategy was widely used. But global factors had negatively affected a number of investments that underpinned this type of strategy - including the assets the Protector Fund was invested in.

The investigator said where a fund invested in fixed interest securities such as gilts or corporate bonds, changes in interest rates could affect the value of the investment. He said bond prices had an inverse relationship with interest rates. So when interest rates went up bond prices went down. He said since the plan valuation of September 2021 the Bank of England had increased its base rate from 0.1% to 4.25% (at the time of the complaint) which was the highest it had been since October 2008.

The investigator said the nature of any investment was that its performance was dependent on a number of external factors which couldn't be controlled by a fund manager. He said a fund or fund manager that had underperformed over a relatively short period of time wasn't necessarily evidence that a fund had been mis-managed.

The investigator therefore didn't recommend that Ms B's complaint should be upheld.

Ms B didn't accept the investigator's findings. Her representative said, in summary, that the complaint was that Scottish Widows had lied about the safety of the Pension Protector fund. The representative referred to Scottish Widows' pension product literature describing the Pension Protector fund as 'lower risk' and 'safe', when it clearly wasn't. He said it was in fact more volatile and higher risk than the funds Ms B was originally invested in. It had lost more money over the previous two years than the client's original funds. However Scottish Widows had continued to market the Lifestyle Strategy and Pension Protector fund as a way to keep the client's money safe – when it wasn't.

The representative said clients could only decide whether they wanted the Lifestyle Strategy based on the literature they were sent by Scottish Widows and issued by their employers before they joined the pension scheme. If Scottish Widows described the Pension Protector fund in their literature as 'safe' and 'lower risk', then the majority of clients would adopt the Lifestyle Strategy as they'd believe that Scottish Widows was telling the truth. The clients would trust the information they were given.

The representative referred to wording on Scottish Widows' website saying; "How does a lifestyle strategy work? A lifestyle strategy is a type of investment that automatically adjusts how your pension is invested over time, gradually moving into lower risk funds as you get closer to your selected retirement age."

But he said this was clearly not true.

Another one of our investigator's responded to the representative's comments. He said, in summary, that like the first investigator, he thought no guarantees had been given. And it had been explained that lifestyling was based on moving to what had traditionally been regarded as safer assets such as fixed interest, bonds and gilts, from more traditionally riskier and more volatile assets such as shares.

However he said this hadn't been described as risk free or completely safe. The correlation between these traditionally lower risk types of assets and annuity rates could be seen as a way to reduce the risk of sharp drops in fund values prior to converting to an annuity. He said although the value of the underlying assets fell, their purchasing power increased when a guaranteed income was bought through an annuity.

The investigator said he appreciated that not every pension holder retiring would want an annuity. But that at the time the strategy was selected in November 2013 'pensions freedoms' hadn't come into effect. The investigator also noted that the representative was the adviser when the application to transfer into the GPP was completed. So he thought the adviser would be fully aware that risk and volatility weren't an exact science.

The investigator referred to Scottish Widows' letter dated 24 June 2021 confirming the request to change Mrs B's retirement date to 2022. The letter included:

"Lifestyle Investment Strategy (may also be referred to as Pension Investment Approach).

At present, your policy includes lifestyle switching as part of your investment strategy. This means that as you get closer to [Ms B's retirement date] (known as your Lifestyle Target Date), we gradually adjust and move your policy into lower risk investments in accordance with your chosen lifestyle switching strategy. The process of switching to lower risk funds will complete by your Lifestyle Target Date. Although this may reduce the growth potential of your policy, it also aims to help protect the value of your fund as you near retirement.

…It is important for you to review your options at retirement. As part of this you should ensure your lifestyle investment strategy remains aligned to your retirement goals and, if they change, it's important your investment strategy reflects this change as well. For example, do you expect to want a guaranteed income, a more flexible level of income or even to take your benefits as cash? You may find our Retirement Planning website helpful in explaining these options for you (www.scottishwidows.co.uk/retirement-planning)."

The investigator said he thought the letter drew attention to Lifestyling and what was expected i.e. that the strategy would continue and also invited consideration of whether the strategy remained appropriate. He said although the representative had said buying an annuity was never a consideration the letter did actually give that example of why a review might be appropriate.

In conclusion, the investigator didn't think that Scottish Widows had done something wrong.

What I've provisionally 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.

In her complaint letter to Scottish Widows Ms B said:

"In my annual statements and the booklets that you have sent to me over the years, you refer to your 'Lifestyle' strategy and why this will help protect my fund value. You have told me that as I got closer to my retirement date, my pension would gradually be moved from the original fund choice (Pension Portfolio 4) into the Pension Protector Fund. This was, as you stated in your literature, "a move to lower risk investments with the aim of helping to protect their value".

I am disappointed to find that the Lifestyle strategy you have adopted has not moved my pension into a lower risk investment environment and it has definitely not protected the value of my pension fund, which has in fact, plummeted in value over the last year."

It's clear that Ms B received information that Scottish Widows sent to her about lifestyling over the years, was aware that she was in a lifestyling strategy and generally aware of the concept behind it; of gradually moving the pension to lower risk funds as she got closer to her retirement date. But in Ms B's opinion Scottish Widows failed to do what it said it would do. I do understand Ms B's feeling about the matter. There is no doubt that Scottish Widows literature explained lifestyling as a gradual movement to lower risk funds on multiple occasions.

However, the literature also explained there were different lifestyle strategies. The original transfer application form explained the option of using one of its "Pension Investment Approaches" or other investment funds. And went onto say:

"Important note

If you are considering using one of our Pension Investment Approaches, please read our "Pension Investment Approach Guide" to find out further information and details of the investment funds used for each Approach.

Annual statements, such as the one dated 30 September 2014, said Ms B was in the Balanced Pension Approach and:

"The funds in which our Balanced Pension Approach invests in will change as you near your chosen retirement age, with the aim being that you are fully invested in the Pension Protector and Cash funds at your chosen retirement age.

Please refer to our Pension Investment Approach guide for further details."

And the later statements, such as the one referred to by the investigator dated 28 September 2021, showed that the majority of her capital was invested in the Pension Protector and Cash funds and said:

"As you're getting close to your retirement age you should review your investment strategy to make sure it's in line with your plans for retirement especially if you are considering deferring your retirement….

…ARE THESE FUNDS STILL RIGHT FOR YOU?

You should review the funds in which your plan invests from time to time to make sure they are still appropriate for you."

Scottish Widows sent Ms B a letter in August 2019 headed 'Changes To Your Pension Investment Options – Please Review', which said, amongst other things, that her plan was invested in the 'Balanced Targeting Annuity Pension Investment Approach' and continued:

There are other investment strategies which may better suit your needs. Please review your pension plan, and let us know if you want to make any changes.

Your pension plan is invested on the basis that you'll choose to buy an annuity at retirement, which would provide you with a guaranteed regular income for life. However, since the introduction of pension freedoms in 2015 fewer people are using their pension savings to buy an annuity when they retire. More people are instead choosing to take flexible income, cash lump sums or a combination of the options.

How your pension is invested now determines how much investment risk and potential growth your pension savings will have until you retire. You can change how your pension plan is invested at any time, but reviewing your pension now will help ensure it's invested in the right way for the option you're likely to choose at retirement.

It went onto say:

Your pension plan is invested in our Balanced Targeting Annuity PIA. A PIA is a lifestyle investment strategy which uses a specific mix of funds, based on your appetite for risk and selected retirement option. This aims to help protect the value of your pension savings (although there are no guarantees) by gradually moving them to lower risk investment funds as you approach retirement.

So there were different lifestyling strategies available tailored to the member's particular plans. Different strategies used a different combination of funds. These were explained in the Pension Investment Approaches guide. The guide would have changed over time given pension legislation introduced after Ms B became a member of the GPP allowed for greater flexibilities in how members could take their pension. Ms B's adviser has provided a copy of a later guide and referred, in particular, to it saying:

"We then begin to gradually reduce your exposure to higher-risk assets once you are 15 years from your selected retirement date, moving more of your pension savings into safer assets such as bonds and cash."

Again, I accept reference is made to moving safer assets. But the lifestyle strategy being employed for Ms B was targeting the purchase of an annuity. The Pension Investment Approaches guide explained the different approaches available and the different funds specific to each approach. It gave a description of each fund and referred the reader to the fund factsheet for further information about a particular fund.

The Pension Protector fund's aim as described in its factsheet was "…to provide a return consistent with the variations in market annuity rates with the aim of reducing annuity conversion risk". So the risk that was being managed was to ensure that, at retirement, any changes to the amount of annuity income Ms B could buy with her pension would be minimised.

Ms B's representative has said Ms B wasn't intending on buying an annuity. However, as the investigator said, Ms B joined the plan prior to pension freedoms coming into force in 2015. There were fewer options available then. It appears that Ms B's adviser had involvement with a number of members transferring to the GPP and would have been familiar with its features and the nature of the different lifestyle approaches. It's clear he had discussions with Ms B over time and Ms B said she discussed the Pension Protector fund with him following receipt of the September 2021 statement.

Lifestyling was tailored to suit the particular objectives of the member. The strategy for Ms B was to move more of her pension to the Pension Protector fund as she approached *retirement with a view to buying an annuity. The Pension Protector fund was largely invested in bonds. As the investigator said, bonds are generally considered lower risk than equities. However even if more of Ms B's pension had been switched to gilts (which are generally considered to be at the lower end of the risk scale in absolute terms and which, in my experience, a lot of other pension providers used for this type of lifestyle strategy), it's unlikely she would have been any better off. Gilts are also affected by interest rates. Whilst there was always the possibility of an increase in interest rates from historic lows, I think the extent of the increase and in such a relatively short space of time wasn't generally expected. A lot of gilt funds lost similar amounts or more than Scottish Widows' Pension Protector fund.*

As I've said above, the Pension Protector fund's aim was reducing annuity conversion risk. So although the value of the Protector Fund fell (as it was invested in bonds), annuity rates increased significantly. Whilst I accept that this would still have an impact on the amount of tax-free cash that Ms B would be able to take, higher annuity rates should mean she should be able to buy a similar level of income with the remaining 75% of the fund – even though it's lower than it would have been.

Scottish Widows wasn't monitoring the suitability of the strategy for Ms B's particular circumstances. It had no responsibility to do so. Scottish Widows alerted Ms B that she was in a particular strategy and that she should review whether that was the right strategy for her. And for the reasons outlined above, I don't think Scottish Widows mis-managed her fund.

Accordingly, whist I realise my findings will be very disappointing for Ms B, for the reasons set out above and explained by the investigator, I'm not persuaded her complaint should be upheld.

My provisional decision

My provisional decision is not to uphold Ms B's complaint.

I asked both parties to let me have any further evidence or arguments that they wanted me to consider by 10 May 2024.

Ms B said she was upset with the decision. However she had no further evidence to add.

Ms B's representative didn't provide any further evidence or arguments.

Scottish Widows Limited said that it had nothing further to add.

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 understand why Ms B is upset with my decision and, as I say, appreciate she will be disappointed with my findings. But having considered all the available evidence and arguments I've seen no reason to depart from the findings set out in my provisional decision not to uphold the complaint.

My final decision

For the reasons set out in my provisional decision above, my final decision is that I don't uphold Ms B's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms B to accept or reject my decision before 12 June 2024.

David Ashley
Ombudsman