

The complaint

Mr R held several pension arrangements with Sun Life Assurance Company of Canada (U.K.) Limited trading as Sun Life Financial of Canada (SLAC). The one complained about is a policy started a number of years ago.

What happened

In February 2023 Mr R contacted SLAC. We have been provided with a copy of a phone call with a SLAC representative. In the call Mr R explains he needs SLAC to send him the details of the values of his pension arrangements as at 31 December 2021. He explains that he asks for this each year as he checks his personal financial worth every year as on this date.

He also explained that he had asked SLAC recently to provide this information but had been sent a copy of the values as at a date in February 2023. SLAC apologised and arranged for these to be sent out by post as Mr R was not comfortable with the information being sent electronically. Mr R confirmed there was nothing further required at the time.

Mr R went on to complain to SLAC in May 2023. He said he was unhappy because of his contact with them in February 2023 when he asked for the values of his plans. His dissatisfaction arose from the fall in value in the 12 months prior to his December 2022 statement. And his belief the plan ought to have been in a *“low risk fund for the last couple of years”*.

SLAC didn't uphold Mr R's complaint. They wrote to him several times, saying that Mr R's pension plan had been moved into a 'lifestyling' approach. In other words where pension funds are moved into investments that have been traditionally seen as lower risk in the years approaching the date benefits are due to be taken, with the aim of protecting the capital value. SLAC also provided various reasons about why they said performance had been impacted in recent times. In particular in respect of the Index Linked Gilt fund where Mr R's pension was invested.

SLAC wrote to Mr R again after their first response to his May 2023 complaint to say that they had been wrong in their first response. This had been when they told Mr R that his pension funds had been moved into the lifestyling approach and the specific fund in February 2022. In fact, SLAC said, this had actually started to take place at a much earlier date (February 2007). This reflected his original intended retirement date. SLAC have now provided a copy of the letter they say was sent to Mr R in late 2006 about this.

In September 2023 Mr R referred his complaint to this Service as he was not happy with what SLAC said. He told us that SLAC had failed to follow his instructions. He said he was unhappy because he had understood he was in a low-risk investment.

Mr R told us that he wanted his pension in *“safe”* funds and had told SLAC to do this in a phone call in February 2022. Mr R went on to let us know the name of the representative he thought he had spoken to at the time. This is the same name as the representative from the February 2023 call. He says nothing followed the call in February 2022 and he didn't follow

up until he received the next valuation that contained a 38% drop in value from the values as of 31 December 2022.

Mr R let us know he was unhappy that he thought this meant his fund had not been moved into a safe fund. And that as a consequence his pension fund has suffered a significant loss. Mr R explained this is serious for him given he needs to draw benefits from his arrangement in the next 12 months. He was also unhappy with the way SLAC dealt with his complaint.

Since the complaint has been at this Service, we have been provided with various historic documents and communications between Mr R and SLAC after he complained. SLAC also sent a copy of the only phone call SLAC say they can find that they had with Mr R in February 2023.

Investigator's view

The Investigator has issued several views in this matter, responding to further submissions and information. Overall she didn't think the complaint ought to be upheld and she provided her reasoning.

Information from Mr R

Mr R doesn't accept what the Investigator says. It is clear he feels suspicious about what has happened here. He provided copies of some of his phone records from February 2022. He also provided a recording of a phone conversation he had with someone from SLAC in January 2023.

Whilst this recording did not change the Investigator's thinking, I think it helpful to summarise the content of this call. I previously invited further information arising from it. But I made it clear I was not requiring any further information.

In this recording Mr R asks SLAC to explain to him why his pension plan has lost 37.5% of its value from the year before according to his December 2022 statement. He wants to know who is managing the fund, as he says that if it is index-linked then it ought to have recovered during the last six months, and so they must have done a poor job.

He also explains that he has a number of other pensions and investments and understands there can be a fall in value and that he has identified a 9 to 10% fall in his other arrangements, including another policy held with SLAC. And whilst disappointing he explains understands this movement and that fluctuations happen. Albeit he also stresses his belief the market saw an overall growth of 0.8% over the year. In summary he said he considered the fall in value of this plan to be too significant and this had taken it back to its 2014 value.

In the call Mr R stressed his understanding that he had spoken to SLAC when he turned 65 and arranged where his fund would be held. And that this was to be in a safe or low risk fund with no exposure to unnecessary risk. Mr R explained he had documents and notes from the time but some of them were at his other property and could not be immediately accessed.

He went on to stress and repeat that he had discussed the fund and how his pension was to be held around seven or eight years previously.

Mr R said he wanted the way the fund is managed to be investigated and an explanation provided as to why his fund value decreased so much. He went on to ask for further information about how with-profits funds work in the context of his plan and for the value of both of his arrangements as of the last relevant day of December 2022.

In concluding the call SLAC undertook to provide a written response to Mr R's request for an investigation on the management of the Index Linked Gilt fund, in addition to the other material requested.

I cannot see that Mr R or SLAC have provided a copy of any response to the January 2023 call. Albeit I see that when Mr R called SLAC in February 2023 he was unhappy as he had recently been sent the values as of February 2023 and not the end of December 2022 as he had requested. This implies there had been a response to the January 2023. In further submissions Mr R asks where SLAC's management responsibility ends and continues to express concern and suspicion.

Provisional decision

I issued a provisional decision on 14 March 2024. In it I explained that subject to anything further I might receive I intended to depart from the Investigator's view to a limited extent. I didn't think the main complaint ought to be upheld, but I did think SLAC ought to have done better when it came to providing accurate information on Mr R's pension once Mr R had complained. I considered this issue was sufficiently connected to Mr R's main complaint and was not simply about complaint handling. As a consequence I indicated that I intended to require SLAC to pay the sum of £100 to Mr R to reflect the impact of where they ought to have done better and the inconvenience and concern the provision of inaccurate information will have caused.

No responses have been received to my provisional 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 have not been persuaded to change my thinking from that set out in my provisional decision. This means I am upholding Mr R's complaint in part as SLAC ought to have done better when it came to the accuracy of the information provided by SLAC to Mr R on his pension once Mr R complained. As such SLAC will need to pay Mr R the sum of £100 to reflect the impact of where they ought to have done better and the inconvenience and concern the provision of inaccurate information caused.

In reaching my decision, it is a matter for me to conclude whether I have enough information and whilst I am required to take into account any relevant law and regulations, regulator's rules, guidance and standards and codes of practice, and what I consider to have been good industry practice at the time, ultimately, I make my decision on what is fair and reasonable in all the circumstances.

Where the evidence provided in a complaint is incomplete, inconclusive, or contradictory, I reach my conclusions on the balance of probabilities, that is, what I think is more likely than not to have happened based on the available evidence.

I have seen that no responses have been received to my provisional decision. I am satisfied that my provisional decision was sent to the email addresses used by both parties, and no party has responded or asked for additional time to respond. I am also satisfied that parties have had sufficient time to respond.

I'm not upholding Mr R's primary complaint. This is because I haven't seen anything that makes me think SLAC failed to act on effective instructions from Mr R to move his pension funds into a different investment to where they are currently invested. I don't think Mr R's

pension fund ought to be being held differently or that where it is currently held is due to any error or failing of SLAC.

SLAC's responsibility to Mr R is as his pension provider. They do not have responsibility to actively manage Mr R's specific pension plan. In summary SLAC hold pension funds as directed by the consumer or their financial adviser and in-line with the terms of the arrangement. Any instruction to make an investment would need to specify a specific destination, such as a particular fund.

SLAC do not receive commission, which was referred to, as they are not advising Mr R on how fund is held or ought to be, nor are they managing investments in a way that is specific to his circumstances and objectives. The charges applied come from their administrative role.

I accept a lifestyling approach was to be applied to the pension arrangement complained about here. This is something that will usually take place in the years shortly before benefits are due to be taken, given the aim of protecting capital with less exposure to the risks inherent in investing. The consequence of this can often be that funds invested in such a lower risk way may not see the potential growth they might achieve if they remained invested with a higher risk approach.

Here I accept SLAC wrote to Mr R in December 2006 and explained his arrangement would soon (February 2007) start moving into the Index Linked Gilt fund as part of the 'automatic consolidation' approach as it was called at the time, which can fairly be understood as a form of lifestyling. The letter went on to explain how this would work. I don't think SLAC were wrong to do this, the information available suggests to me this was part of the original arrangement for the plan.

Mr R (whether with the assistance of an adviser or not) chose to delay taking benefits at the selected retirement date.

It appears to me that since the automatic consolidation process started and completed, the Index Linked Gilt fund is where Mr R's investment has remained. I can see that Mr R's December 2022 statement confirms this holding.

I appreciate Mr R says he called SLAC and told them to move his funds into a 'safe' fund, and he doesn't accept we have been provided with all the calls as he thinks we ought to have been. Mr R has also told us the Index Linked Gilt fund ought not to be described as a low-risk fund.

When Mr R originally complained he said he thought his funds had been in a low-risk fund for a couple of years before his call with SLAC in February 2023. That suggests to me Mr R might be recalling a call prior to 2022. Equally I have seen Mr R referred to his notes suggesting the name of the person he had spoken to when he says he instructed funds to be moved. And I have seen the call about fund values in February 2023 was with someone of the same name.

I have seen that SLAC do not appear to have checked their call records for February 2022, it looks like they checked February 2023. I make no criticism here as I have seen a typographical error in the date they were asked to look for. In considering the importance of this, I note that in Mr R's phone call of January 2023, Mr R says that the fund his pension was to be held in was arranged seven or eight years ago, and when he was aged 65.

On balance I think Mr R was aware of where his pension was invested, or ought to be expected to have known. The information was first provided in 2006 and on a regular basis

thereafter. Annual statements were issued containing such information and Mr R completes an annual review of his arrangements. As such he was regularly reminded of where the investment was held.

I think the main thrust of Mr R's complaint actually arises from the performance and management of the particular fund (Index Linked Gilt fund) and the losses sustained from its performance in the particular period prior to the complaint. This is the concern summarised in the January 2023 call and reflected in Mr R's ongoing dissatisfaction.

The performance and management of a particular fund is not usually something this Service can consider. Any wider concerns about a funds management might be considered more appropriately addressed to the regulator. I am satisfied here that Mr R's pension was invested in the way he had been told it would be. And I have not seen anything that suggests to me he had effectively instructed SLAC to invest his fund elsewhere. A reference to wanting a safe fund would not have sufficed for example.

I note that the December 2022 statement contains information on fund switching and some of the funds that might be available to Mr R if he is thinking of doing this. It also stresses that the needs of some customers change, and an example is provided of the need to secure savings as a customer gets older rather than seeking investment growth.

Looking at the risk profiles of the funds as set out in the statement, the index linked funds are shown as being the lower risk choice, and only offering more exposure to risk than a money holding. Mr R's pension has been invested in a fund with a lower risk profile, but this does not mean the fund is not subject to fluctuation and loss.

I make no comment on the performance of the Index Linked Gilt fund. Mr R has confirmed he understands the volatility in recent investment performance and the impact this has had on the investment market. This includes in particular the significant impact on the gilt market, which has often historically been seen as a less risky investment premise.

From the information provided, the Index Linked Gilt fund was the selected fund for the plan under the original plans terms when it came to the investment approach to be applied close to the selected retirement age. I accept what is said about the fund and that this is not a fund that removes the impact of investment risk or might be described as low risk. I understand it is described as offering a moderate level of risk, but the use of the word 'moderate', needs to be read in the context of the whole sentence. In that it is a moderate level of risk for the prospect of slightly higher returns than money deposits and for those who may be wary of investing in the stock market.

That doesn't mean it is not a fund that can be accurately described as offering a lower risk of investment loss. It is disappointing for Mr R that this fund performed poorly in the relevant period.

Had Mr R's fund been held in cash for example, thus removing the direct impact of investment loss, it could have been subject to other loss, for example the impact of inflation and charges. This is often not thought to be a suitable option for funds for any extended period of time. In any event, where Mr R's fund is held (including decisions about what was suitable for Mr R) would not be for SLAC. It would be a matter for him (or any adviser he instructed) to consider whether it was suitable for him to move to a different investment.

Mr R thinks SLAC ought to provide at least one further call recording. But whether Mr R called in 2022 or earlier, (or even if he didn't) or if SLAC can't find the call, doesn't change my thinking that SLAC could not have acted on an oral instruction made over the phone to simply move Mr R's pension funds into a safe fund.

As I have explained SLAC are a pension provider and are not providing Mr R with an advised service. This means that if Mr R wanted to change the way his pension was invested, he would need to instruct SLAC specifically in respect of named fund(s) he wanted his pension to be invested in. It would be impossible for SLAC to identify what Mr R meant by a safe fund.

When it comes to investing, 'safe' might be interpreted in many ways, and the meaning of what is safe for one consumer might differ based on their individual circumstances and objectives, including their appetite for investment risk, their capacity for loss relating to investment and when they intended to start taking benefits.

So even were I to accept Mr R told SLAC he wanted his funds to be moved to a safe fund, I don't accept SLAC would have agreed to this or been able to act on this as an instruction. As such I haven't required SLAC to look for other or earlier phone calls.

Outstanding matters

In my provisional decision I invited all parties to send me any communications from SLAC to Mr R in January and February 2023, given it appeared matters that happened then might be the pre-cursor to the call in February 2023 and the contents of the May 2023 complaint. I haven't received anything. But I don't think this prevents me from determining Mr R's complaint. I made it clear in my provisional decision that I was only inviting parties to provide any information and not requiring them to do so. I am satisfied I have sufficient information to reach a fair and reasonable decision on the complaint here.

Overall I am not persuaded SLAC failed to act on viable instructions from Mr R to change the way his pension funds were held or that they ought to have moved them to a different fund. I am sorry as I know this will disappoint Mr R and I can appreciate his concern when seeing the loss sustained during the relevant period.

Putting things right

What SLAC must do

SLAC did not provide accurate information to Mr R when they ought to have done, in 2023. SLAC wrongly told Mr R that his pension had been moved into lifestyling in February 2022 and they went on to tell him more about market performance and the impact of gilts. The accurate position was that Mr R's pension actually started to be moved into the Index Linked Gilt fund in 2007. It was misleading and inaccurate to suggest this happened in 2023.

This error did not make things easier for Mr R to understand or follow. It will have added to his concern and distrust of what had happened at the time. As such whilst I accept the error was remedied shortly afterwards by SLAC when they realised this had not been a recent fund switch, I consider it fair here to mark the impact on Mr R with an award of £100.

This Service is intended to resolve disputes and does not act to punish businesses when things go wrong, this is not our role. I consider this is a fair award to make here.

My final decision

For the reasons given I uphold Mr R's complaint in part against Sun Life Assurance Company of Canada (U.K.) Limited trading as Sun Life Financial of Canada. SLAC will need to pay Mr R the sum of £100 within 28 days of being informed of his acceptance of my

decision. This is to reflect the impact of the errors contained in their communications in 2023 when they told Mr R his fund had been moved to a new investment in 2022.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 25 April 2024.

Louise Wilson
Ombudsman