DRN-5335194

The complaint

Mr C complains that FIL investment services (UK) Limited (FIL) made changes to the default investment strategy for his pension plan without giving him advance notification. He would like to know what obligations FIL had to make him aware of any changes and what action should be taken against FIL if those processes weren't followed. He would also like compensation for the trouble and upset the matter caused him as well as redress for any loss suffered due to the switch of investments being carried out without the opportunity for him to take alternative action.

What happened

Mr C holds a "buy out" personal pension plan with FIL from the proceeds of a previous occupational pension scheme. His funds were invested into a default investment strategy which FIL reviewed in 2024. It decided to make some changes to the investment strategy which focused on a "target date fund approach". It also offered an updated range of self-select funds. In May 2024 FIL started the process of making affected planholders aware that it would automatically switch their existing funds into the new funds from 6 August 2024 unless they switched into the self-select funds or advised FIL they wished to transfer to a new provider.

Mr C said he received a letter from FIL on 19 August 2024 setting out the investment changes. But as the deadline for opting out of the new investments had passed, Mr C complained. He said he'd received the letter, dated 12 July 2024, telling him that his funds would be moved into a new investment strategy from 6 August 2024. He said he hadn't received any previous notification about the matter and didn't want to invest into the new strategy. The following day Mr C attempted to switch his investments himself but was unable to do so because all transactions had been suspended until FIL had completed the migration to the new funds.

FIL said it sent an email about the changes to Mr C on 8 May and a reminder on 9 July 2024 but was aware that these emails "bounced back". So it then issued a postal communication around 17 May with the reminder letter around 12 July 2024. It noted Mr C had advised it of a change of address notification on 7 June 2024 with confirmation that he had automatic 'mail forwarding' in place. So, it thought it had tried to communicate with Mr C in good faith and couldn't be held responsible for issues with the postal system.

It also confirmed that Mr C was required to make any changes to his investments before 6 August 2024 if he didn't wish to be switched to the new fund, but he had made changes as soon as possible after the period during which switches and alterations weren't allowed.

Mr C questioned why FIL had sent two emails to an old email account which had been deleted for around five years, especially as it also held details of his correct personal email address. But FIL said that it was required to store Mr C's data indefinitely as was required by the regulator for pension transfer cases. It accepted that there was an alternative email address to be considered after the first one was sent back – but as it's process for sending bulk mail was largely automated this simply wasn't picked up.

Mr C couldn't understand why FIL didn't use his correct and current email address or other more secure methods (registered post) to contact him about such an important change – so he brought his complaint to us.

One of our investigators looked into the matter. He didn't think Mr C's complaint should be upheld. He thought that FIL made a commercial decision to notify all customers affected by the changes through a bulk update using the correspondence details it held on file. He thought FIL's actions in sending two emails to Mr C and then two letters by post, was a reasonable attempt to issue Mr C with this information, but ultimately thought events outside of both parties control were more likely to have meant the letters didn't arrive in a timely manner.

Mr C thought we hadn't addressed the issue of the way FIL stored his data and kept it updated, and he also provided a copy of a recent letter from FIL which said it didn't hold his personal email on file, which he knew to be incorrect because it was shown in his personal profile within his online account. He thought this added more support to his claim about the confusion around the way FIL said it communicated with him. He said his concern remained about the way FIL manages and stores his (and other members) data. He wanted his complaint to be referred to an ombudsman – so it's been passed to me to 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.

And having done so I've reached the same conclusion as the investigator. I imagine this outcome will disappoint Mr C as I've seen the strength of his feelings – particularly about the way FIL has stored and used his personal data – through the submissions he's provided. But I think FIL has acted fairly here and I'm not persuaded it's done anything wrong, so I'll explain my reasons.

Advising policyholders of the change to investment strategy

In early 2024 FIL conducted a review of the default funds used as an investment strategy for Mr C's former workplace pension scheme. It decided to move to a new strategy more focused towards members retirement dates and also enhanced its self-select funds offering. This was a commercial decision undertaken by FIL – which it was fully entitled to do. I would then have expected FIL to have written to all the members affected with an outline of what it was planning to do – with the supporting reasons, as well as a timescale of what was needed from each member in preparation for the change. I've seen a template of the original mailing that was sent (as well as a copy of the mailing Mr C received) and I'm satisfied the letter did exactly that.

In particular I note the section "*what you need to do*" made it clear that members should log into their accounts and select the funds they wished to move to by 6 August 2024 otherwise they would automatically be switched to the new default target funds.
So I think it general FIL acted fairly and reasonably in communicating the changes it had decided (and was entitled) to make and giving planholders the opportunity and time to take alternative action if they wished to do so.

FIL said it intended to communicate this information by email to the members using the "correspondence" email address held on their accounts. This was a blanket approach, and the communication was sent as a bulk delivery. It further explained that, if there was problem with any emails being delivered or received which it became aware of, it would then send the

letter by post. I think this was a fair and reasonable approach to ensure the members would receive the information in good time, so I've gone on to look at what happened in Mr C's situation.

How did FIL issue the information to Mr C?

In line with its intention FIL emailed Mr C on 8 May 2024 with the required information. Unfortunately because Mr C had previously stopped using that email address it was returned as undelivered. It also sent a reminder email in July 2024 with the same outcome. I've seen evidence to support the claim that FIL knew the emails hadn't been received so it sent the same communication through the post in May and July 2024. This was in line with what FIL said it would do in such a situation. However because Mr C lived abroad and had moved address in June 2024 the letters either weren't received (letter one) or received after the deadline for making changes (letter two).

I'm unaware of the reason that the first letter didn't reach the destination, but I'm satisfied it was, on balance, sent to Mr C at the address he previously held. I'm also unaware of the reason the second letter was delayed although it's possible this might have been because Mr C used a redirection of mail service when he moved, but either way I can't hold FIL responsible for any postal delays or issues. But even if I am wrong in my assumption of what may have happened to the letters, I'm persuaded that they were sent to the address held on file at that time, so I don't think FIL did anything wrong there.

Mr C has suggested that FIL could have used an additional, more secure means of communicating with him such as registered post. But I haven't seen any evidence to suggest that FIL was obliged to do this or that it had suggested it would. In bulk mailings such as these I think an email with an additional safety net of a postal service was entirely reasonable in the circumstances. In any case FIL wasn't aware that its use of "normal" post had been unsuccessful until after the deadline had passed and I don't think it's reasonable to have expected it to use registered post for example as a first means of communication.

So I think FIL took reasonable steps to contact Mr C in good time before the deadline date so that he could take any necessary action around his fund switch. It tried to contact him by email and then also sent letters to him – so I think it treated Mr C fairly in that respect.

The email addresses that were used

Mr C has told us that his personal email address is held on his online "plan viewer" which also holds other detailed information. He says he can access, edit, and amend that information himself but cannot amend the information that FIL holds centrally – such as the "correspondence" email address. And he maintains that FIL has been communicating with him through his personal email address for some time, and this is the only recent occasion that it hasn't used that email address. So he questioned this, because to have used the current email address would almost certainly have meant this situation wouldn't then have arisen.

I can understand Mr C's frustration here and I have sympathy for the position he found himself in as a result. But I don't think it was unreasonable for FIL to take a commercial decision that it would use all members correspondence addresses in this case for what was a mass 'automated' mailing about an important change to the investment strategy. And FIL also had in place a backup facility of using the postal service where it was known emails hadn't been received – which it did in this case. It was unfortunate this didn't work in Mr C's situation due to issues with the postal service, which I can't reasonably say was FIL's responsibility.

FIL's terms and conditions set out that it will only erase or delete customer information it holds with that person's authorisation. So it was for Mr C to contact FIL and ensure his old email address was deleted from his centrally held data, and there's nothing to support the idea that Mr C took this course of action. But I also imagine this might have been confusing for Mr C who would have assumed that by amending the information within his online account he had effectively deleted this email. I can understand the point he is making around that matter. But to uphold a complaint around that issue I need to be sure that FIL acted unreasonably by not deleting information he had asked to be removed or making some other related error. And although FIL may not have acted in the way Mr C expected it to that doesn't necessarily mean it didn't follow its process in this instance or acted unfairly towards him.

The other General Data Protection Regulation (GDPR) matters

In his response to the investigator's assessment Mr C told us of his concerns around FIL's communications and information on how it manages and stores his data. He wanted us to look into this matter for him as he has been unable to obtain answers to date. He also previously raised general questions about FIL's GDPR policy. As part of a general response FIL indicated that it has a responsibility to hold all data relating to pension transfers indefinitely or until directly requested to delete the information by Mr C.

The specific matter of whether a firm has complied with GDPR is usually a matter for the Information Commissioner's Office (ICO), what I've considered in this complaint is whether FIL has acted fairly regarding the ancillary matters to GDPR – such as whether it communicated its changes fairly and made reasonable efforts to ensure Mr C was able to make any changes to his investments before the deadline and subsequent "blackout" period, when no alterations were allowed for a short period of time. Therefore if Mr C wishes to pursue any matters directly relating to FIL's GDPR responsibilities and processes he should approach the ICO in the first instance.

My final decision

For the reasons that I've given I don't uphold Mr C's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 14 August 2025.

Keith Lawrence
Ombudsman