DRN-5116195

The complaint

Mr B complains that Scottish Widows Limited trading as Clerical Medical (SWL) failed to provide him with annual statements in 2022 and 2023. He also complains about the investment performance of his group stakeholder pension plan with it.

What happened

Mr B joined his employer's group stakeholder pension plan in May 2002. This was administered by SWL. He completed an application form, opting for his contributions to be invested in the Lifestyle (Balanced) strategy, which I understand was the default strategy. He also chose a selected pension age of 65.

SWL wrote to Mr B over the years about his pension. But it failed to send him annual statements in 2022 and 2023.

The 2021 statement was dated 31 March 2021. It showed that Mr B's pension had a value of £41,248.68 at the date of the statement, but it wasn't guaranteed.

The statement noted that the value had gone down by £3,559.21 over the year.

The statement contained a section: "*Are these funds still right for you*?", which stated:

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

The statement also noted that Mr B could change his investments. And said that if he wanted up-to-date information about how his funds were doing, or information about the funds available to invest in, he should call it on the provided number.

SWL wrote to Mr B on 27 September 2021 to ask him to consider reviewing his pension. It said it'd enclosed some key information to help. The letter also provided the value of his pension as at 19 September 2021. It said this was £43,095.25, but it wasn't guaranteed.

Mr B called SWL on 15 September 2022 with a query. SWL said it reissued the policy statement it had sent him on 27 September 2021.

Mr B didn't receive a 2022 or 2023 statement. So he called SWL on 5 January 2024 to ask it to send him his missing statements. He said that it told him that the statements weren't available.

When he hadn't heard anything from SWL, Mr B called it again on 26 January 2024 to complain about its failure to send him the requested annual statements. He wanted reassurance that his money was being taken care of properly. SWL acknowledged the complaint on 31 January 2024.

SWL wrote to Mr B again on 21 February 2024 to tell him it was still working on his complaint. It also emailed him on 18 March 2024 to tell him it would try to put things right for him as quickly as possible. But that it was still waiting for the policy information letter to be generated. SWL issued a further holding letter to Mr B on 20 March 2024.

Unhappy, Mr B brought his complaint to this service on 21 March 2024. He said he'd been affected by stress and anxiety about his pension fund. He felt SWL was in breach of its obligations to him as it hadn't sent him a pension statement for nearly two years.

Mr B emailed SWL for an update on his complaint.

On 3 April 2024, SWL replied that it was still waiting for the requested information. Later the same day it emailed Mr B the information he'd requested.

The 31 March 2023 statement showed that Mr B's pension had a value at that date of £30,668.69, but that this wasn't guaranteed. It said this was £7,858.76 down over the year.

SWL issued a statement of value as at 3 April 2024 to Mr B. This showed a value of £29,162.18. Mr B was very unhappy with his pension's performance since the 2021 statement.

SWL issued its final response to Mr B on 4 April 2024. It addressed the following complaint points:

- *You have not received a yearly policy statement since the year 2021.*
- *You have experienced issues obtaining policy information over the phone.*
- *You are not happy that the value of your plan in April 2023 has dropped significantly since the year 2021.*

SWL apologised for not sending Mr B the statements when it should've and for the trouble he'd encountered obtaining policy information over the phone. It paid him £300 compensation for the inconvenience this had caused. But it didn't agree that it was responsible for the performance of Mr B's pension. It said the value wasn't guaranteed and could go up or down.

SWL said that it'd contacted its Fund Performance team and asked it to send Mr B additional information that might be relevant to the fall in the value of his investments.

Mr B didn't accept the final response. He was unhappy that his pension value had dropped significantly since his last statement. And felt that SWL should be held responsible for the performance of his fund. Mr B said he would've transferred to another provider if he'd received his statements on time, as he would've realised sooner than his pension had dropped in value.

Mr B told our investigator that the lifestyling strategy wasn't explained to him. And that he hadn't been able to make an informed investment choice over the period he didn't receive statements.

Our investigator asked SWL what information it'd given Mr B about his investment strategy.

SWL provided copies of correspondence from 2018 which noted the Lifestyle investment programme and referred to the guide: '*Choosing Investment Funds – Lifestyle Investment Programming Guide*' for further details. It also provided a copy of its "*Group Stakeholder Pension Plan Information*" booklet. This explained Lifestyle Investment Programming in detail.

Mr B told this service that he had a spreadsheet in which he kept a record of his fund values and investment performance. He was able to use this to compare the performance of his different pension funds with different providers. He thought his spreadsheet showed that the dramatic losses he'd suffered with his SWL funds weren't consistent with his other pension funds' performance. He said that if he'd known about the poor performance at the time he'd have moved his funds to another pension provider.

The spreadsheet contained the information in the first three columns about Mr B's SWL pension:

Value	**Date**	**% variation**	
£33,616.00	31/03/2016		
£37,367.97	25/08/2016	11.16	
£40,297.00	31/03/2018	7.84	
£40,900.00	18/10/2018	1.5	
£44,807.00	31/03/2020	9.55	
£45,665.00	17/07/2020	1.91	
£45,474.00	14/12/2020	-0.42	
£41,248.00	31/03/2021	-9.29	
£43,086.00	30/08/2021	-5.25	4.46%
£38,527.00	31/03/2022	-6.6	-10.58%
£30,668.00	31/03/2023	-28.82	-20.40%
£29,162.00	03/04/2024	-32.32	-4.91%
£29,708.00	05/09/2024	1.87	

I've added a fourth column, showing the actual increases/decreases from one row to the next, as a calculation error in Mr B's original spreadsheet is showing incorrect values for those four rows. Mr B only received the values in the table above for 31 March 2022 and 31 March 2023 in April 2024.

Our investigator felt that the £300 compensation SWL had paid Mr B was fair to put things right about the missing statements. But he didn't think that SWL could fairly be held responsible for the performance of the pension, which was outside its control. He said SWL's role as pension administrator had been to manage Mr B's plan in line with the agreed investment mandate, provide accurate information, and act on the instructions it received from him in a timely manner. And that it wasn't responsible for providing advice or actively managing his funds. He felt that SWL had correctly carried out its role as pension administrator and done everything he'd expected it to do. He also felt that it'd managed Mr

B’s lifestyle fund in line with the instructions given when the policy was first taken out.

Our investigator agreed with Mr B that the lack of statements meant he hadn’t been able to review his options over a period when his pension fund fell in value. He felt that SWL should pay Mr B £200 compensation for the loss of opportunity.

Mr B didn’t agree with our investigator. He still felt SWL should be held responsible for the dramatic reduction in his pension fund value. He said his pension had fallen by more than £16K during the period when he hadn’t received the pension statements. And that during the period when he didn’t receive statements he’d been unable to make any informed decisions about what to do with his funds. He therefore felt he’d been disadvantaged.

As agreement couldn’t be reached, the complaint has come to me for a 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’m going to uphold it. But I agree with our investigator that SWL isn’t responsible for the fund performance Mr B has experienced. I know this will be disappointing for Mr B. I’ll explain the reasons for my decision.

I first considered whether Mr B would’ve acted differently if he’d received the 2022 and 2023 statements when he should’ve.

Would Mr B have acted differently if he’d received the statements in 2022 and 2023?

We can’t know for certain what Mr B would’ve done if he’d received the statements on time. So what I set out here is what I think is more likely than not to have happened.

Mr B said that when he didn’t receive the 2022 and 2023 annual statements, he had no way of knowing how his pension fund was performing. He also said that he tried to contact SWL by phone, but it wasn’t able to provide a valuation of his pension. Mr B said he would’ve transferred to another provider if he’d received his statements on time.

Mr B said his pension had fallen by more than £16K during the period when he hadn’t received the pension statements. And that during that period, he’d been unable to make any informed decisions about what to do with his funds.

While I do appreciate that Mr B took certain steps to find out about his pension in early 2024, I’m not persuaded that he did everything he could to find out about how his funds were performing over the period during which he didn’t receive statements. I say this in the first instance because there’s no evidence that Mr B called SWL for information about his pension between his call on 15 September 2022 and his call on 5 January 2024.

I acknowledge that Mr B said his concerns started as he approached retirement age. I appreciate that he would naturally want to know how his pension was performing at this point. So I understand why the missing statements were particularly important to Mr B in 2022 and 2023.

I consider that the spreadsheet that Mr B has shared with this service shows that his fund performance had been poor over the period just before he received his 2021 annual statement. Therefore, given Mr B states that his spreadsheet would’ve led him to consider moving his funds if he’d had the information contained in his 2022 and 2023 statements on time, I would've expected him to have thought about changing his funds after receiving his 2021 statement.

I'd also have expected Mr B to have called - or otherwise contact - SWL much earlier than he did about his missing statements. The 2021 statement contains both links for fund information and phone numbers to call SWL on. I think Mr B could've used the information contained in this statement to access the fund information he didn't get because his 2022 and 2023 statements weren't sent to him much sooner than he did.

I also note that Mr B's spreadsheet contained other instances where his investments had fallen in value, but he'd taken no action to change. This included a sharp decrease in the value of one of his other policies between 2021 and 2022. As this happened around the same time as the event being complained about here, I consider this shows its more likely than not that Mr B wouldn't have made any changes to his SWL pension if he'd received his 2022 and 2023 statements on time.

Overall, I'm not persuaded that Mr B would've done anything differently if he'd received his 2022 and 2023 statements on time.

I next considered if it would be fair to hold SWL responsible for the fall in the value of Mr B's pension.

Should SWL be held responsible for the dramatic reduction in Mr B's pension value

This service doesn't generally consider complaints about investment performance. This is because performance is usually outside of a business's control. However, we can consider whether there's any evidence that SWL failed to manage Mr B's funds appropriately, or if it treated him unfairly.

In this case, SWL is the pension provider and administrator. Its role is to provide information about fund choices to its customers, so that they can make informed decisions about where to invest, and then to invest its customers' funds in line with their instructions. SWL doesn't give advice on the best way to invest funds, it simply acts on its customers' investment instructions.

I haven't seen any evidence that SWL failed to manage Mr B's funds in line with his original and any subsequent instructions. I've also seen no evidence that SWL advised him on his investments.

Mr B's annual statements confirmed what he was invested in each year and recommended that he reviewed the funds to make sure they were appropriate for him. The statements also made it very clear that the value of his investments could go down or up. They also explained that Mr B could change the funds he was invested in if he wanted to.

Whilst it's clear Mr B is disappointed with the performance of the funds, that doesn't mean that SWL has mismanaged them. I've found no evidence of mis-management. Therefore I can't reasonably hold SWL responsible for the investments Mr B held or how those investments performed.

I can also see that Mr B didn't consider that SWL had explained the lifestyling strategy to him. But I'm not persuaded that this is the case.

I say this because the evidence shows that Mr B elected the default lifestyling strategy at the start of his pension. It also shows that SWL sent him information over the years about that strategy. And that it also told him where he could find more detail about that.

I finally considered the distress and inconvenience caused by the missing statements.

Distress and inconvenience

SWL has paid Mr B £300 for the distress and inconvenience caused by the missing statements.

Our investigator additionally felt that the missing statements had led to Mr B losing the opportunity to review the performance of his pension and consider his retirement options during this period.

I agree with our investigator that Mr B suffered significant upset and disappointment when he realised he'd been denied the opportunity to review his policy and make an informed investment decision due to not receiving the 2022 and 2023 statements on time.

I also agree that the additional £200 he recommended SWL should pay Mr B for this loss of opportunity, taking the total distress and inconvenience payment to £500, is reasonable. I say this because while I don't underestimate the stress and anxiety this has caused Mr B, a total of £500 is in line with what I would've otherwise recommended under the circumstances.

I therefore uphold the complaint.

Putting things right

I require Scottish Widows Limited trading as Clerical Medical to pay Mr B an additional £200 compensation.

My final decision

For the reasons I've given above, I uphold this complaint. I require Scottish Widows Limited trading as Clerical Medical to pay Mr B an additional £200 compensation.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 16 December 2024.

Jo Occleshaw
Ombudsman