

Ombudsman's Determination

Applicant	Mr R
Scheme	Radius Aerospace UK Retirement Savings Plan (the Plan)
Respondents	Legal & General (L&G)

Outcome

1. I do not uphold Mr R's complaint and no further action is required by L&G.

Complaint summary

2. Mr R complained that he was unable to access his online pension account for several months, and this prevented him from taking advantage of the investment opportunities that arose during the pandemic. He contends that this caused him to incur a financial loss.
3. Mr R has said the £100 offered by L&G in compensation is insufficient and does not cover the stress and financial loss he has suffered.

Background information, including submissions from the parties

4. On 1 October 2019, Mr R joined the Plan, which is a defined contribution scheme that is administered by L&G. The Plan allows members to build pension benefits through monthly contributions, investment returns, and tax relief.
5. On 22 October 2019, L&G sent Mr R an enrolment letter to welcome him into the Plan. This letter informed him that his pension benefits would be invested into the L&G PMC Multi-Asset 3 Fund as that was the default investment option. It explained that: -

“This is considered to be a good starting point for most people, but it won't take into account your personal circumstances or goals. So, it is a really good idea to look at other options available and decide whether you want to make any changes...you can find out more about investing and your fund choices on the plan website”
6. On 7 January 2020, L&G sent Mr R a letter to confirm that his pension benefits had been transferred from his previous provider into the Plan. This letter advised that Mr

R could keep track of his pension online by signing up for the 'Manage Your Account' feature (**online account**) on L&G's website.

7. On 28 April 2020, L&G wrote to Mr R to notify him that his latest benefit statement had been stored online and was ready to be viewed. It gave him instructions on how he could sign up for an online account and review the statement.
8. On 27 August 2020, Mr R sent an email to L&G. He explained that he had attempted to sign up for an online account but was not able to do so. He asked that L&G check if the email address it had on file for him was correct.
9. On 7 September 2020, L&G responded to Mr R's email. It stated that: -
 - Due to the measures it was taking to protect its employees and customers from the spread of COVID-19 across its business locations it was only able to offer a reduced service.
 - It was experiencing very high work volumes. As a result, there was a delay in responding to member requests and it was unable to make outbound calls.
 - After checking its records, it could not find a verified email address for Mr R on file.
 - Due to General Data Protection Regulation (**GDPR**) rules and for the protection of Mr R's personal details, it could not send member-specific information via the email he was using.
 - Mr R should get in contact with its web support team between the operational hours of 9:00 am and 5:00 pm.
10. On 10 September 2020, Mr R emailed L&G. He explained that due to his work commitments between the hours of 8:00 am and 5:00 pm, he was not in a position to make personal calls during the time the web support team was operational. He said his pension benefits had recently been transferred to the Plan and he was anxious that he could not access his pension online. He reiterated the problems he was having regarding setting up his online account and requested that L&G help him resolve this issue.
11. Mr R completed L&G's customer satisfaction survey and expressed that he was experiencing issues in relation to accessing his pension online.
12. After receiving feedback from its customer satisfaction survey L&G sent Mr R an acknowledgment on 22 September 2020.
13. On 23 September 2020, Mr R responded to L&G's email. He said that: -
 - He received a letter from L&G on 28 April 2020 which informed him that his benefit statement was ready to be viewed online. He followed the instructions given in the letter but was unable to sign up for an online account.

- He has previously been in contact with L&G to resolve this issue, but he was directed to speak with the web support team.
 - He emailed L&G on 10 September 2020 explaining that due to the hours he worked he was unable to telephone the web support team during its operational hours and asked for other ways this situation could be resolved.
 - L&G did not respond to the email he sent on 10 September 2020.
14. On 24 September 2020, L&G emailed Mr R apologising for the difficulty he had in accessing his online account. L&G explained that the issue had been escalated to the relevant department.
15. On 25 September 2020, L&G followed up with Mr R. It stated that: -
- It could confirm that there was currently no record of an online account in his name.
 - He could sign up for an online account using the provided link. Once the registration was processed L&G would send an activation code to his email address which needed to be used within 72 hours in order for him to access his online account.
16. On 10 October 2020, Mr R emailed L&G. He explained that he had used the link provided and was still unable to set up an online account. He said he received a notification that his User ID was already in use and this contradicted what L&G had told him previously about not having an online account registered in his name.
17. On 21 November 2020, Mr R made a formal complaint to L&G. He said that: -
- After receiving letters from L&G on 7 January 2020 and 28 April 2020 he made multiple attempts to sign up for an online account.
 - He emailed L&G for support on numerous occasions, but the issue remained unresolved.
 - This year presented a significant opportunity to maximise investment returns given the effects of the Pandemic on the stock market.
 - Due to not having access to an online account he was unable to choose where his pension benefits would be invested which could result in him losing tens of thousands of pounds by the time he retired.
18. On 23 November 2020, L&G acknowledged Mr R's complaint.
19. On 4 December 2020, L&G issued its formal response to Mr R's complaint. It stated that:-
- It disagreed that it had done anything wrong. After Mr R's email of 28 August 2020, it responded on 7 September 2020 to confirm that his email address could

not be verified. It also advised him to contact the web support team during their operational hours so it could complete security and get Mr R access to his online account.

- It did not hear back from Mr R until his feedback in the customer satisfaction survey which it responded to on 22 September 2020. The following day, his case was referred to the web support team who identified that there was no active account under his name. Then on 25 September 2020, an email was sent to him to explain how he could set up an online account.
- Mr R was also informed that if he encountered problems in the future in accessing his pension online, there were alternative ways he could change his investments. He first needed to give an investment instruction to L&G explaining which percentage of his pension pot he wanted to invest and in which fund. These instructions could be given by calling the Helpline on the given number or by emailing the Investment team at the provided email address. It would then be able to carry out any changes he had instructed.
- It disagreed that L&G was the reason Mr R lost out on investment opportunities because this was the first time, he notified it of his intention of making changes to the investments he had in the Plan.
- If Mr R disagreed with this response, he had the right to escalate his complaint to the Trustees by sending a letter to the provided address.

20. Mr R disagreed with L&G's formal response and wrote to the Trustees. This letter was not received by the Trustees and was later forwarded to L&G on 18 February 2021.

21. On 16 February 2021, Mr R sent an email to L&G. He explained that he had written to the Trustees of the Plan and had not received a response. He requested that L&G confirm its final position on his complaint before he decided whether to escalate it to The Pensions Ombudsman.

22. On 18 February 2021, L&G responded to Mr R's email. It stated that: -

- There was no record of the letter he sent to the Trustees which was why he had not received a response.
- There was no open Internal Dispute Resolution Procedure (**IDRP**) for him at present.
- After checking the system, it could not find an active online account for him.
- The complaint response dated 4 December 2020 detailed that it had responded to each of his emails and provided detailed information about how to set up an online account.

- In order for him to access his pension online, he needed to sign up for an online account himself. If he was having problems when following the provided link then he was asked to submit screenshots of the error message he was receiving.
23. On 18 February 2021, Mr R sent L&G a screenshot of the error message he was receiving which stated that his User ID was invalid or already in use. He also attached the complaint letter he had sent the Trustees as the original was undelivered.
24. In his letter to the Trustees Mr R raised the following complaint points:
- L&G's service had been unacceptable.
 - The fact that he was unable to access and review his pension via an online account made him anxious and caused him to miss out on opportunities for potential gains.
 - In the formal response, L&G claimed that he did not respond to its email dated 7 September 2020. When in fact he followed up on 10 September 2020 to explain that due to his work commitments, he could not contact the web support team.
 - L&G has not provided a reasonable explanation as to why its web support team could not make outbound calls and could only take inbound calls.
 - L&G has made the argument that he has never mentioned wanting to make changes to the investments he had in the Plan. However, the fact that he has been trying to set up an online account since August 2020 confirms that he was looking to manage the investments he had in the Plan.
 - The alternative methods of making investments and managing his account were not mentioned in the documentation he had received from L&G.
25. On 19 February 2021, L&G sent Mr R an acknowledgment that his complaint was escalated to Stage One of the Plan's IDRPs.
26. On 23 February 2021, L&G emailed Mr R to inform him that the reason he had been unable to sign up for an online account was because the email address he was using was already registered with L&G for his home insurance policy. It explained that while it could link the two accounts, his details on both accounts would need to match. As his home address did not match this would need to be updated before the two accounts were linked. L&G requested that Mr R submit proof of his home address so that his accounts could be linked.
27. Mr R responded on the same day, providing proof of his home address.
28. On 25 February 2021, L&G identified that Mr R's home address on his home insurance policy was incorrect and updated it using his correct details.
29. On 5 March 2021, L&G issued its Stage One IDRPs response. It stated that:
- It agreed that it took a long time to resolve the issues with Mr R's online account.

- It was struggling with reduced resources and as a result was not able to make outbound calls. It confirmed that due to an increased volume of calls and remote working system issues all of its agents needed to be available to take the calls coming into the web support team during business hours.
 - The email Mr R sent on 10 September 2020 was not noted on his record, so L&G was not aware that he had responded to its email sent 7 September 2020.
 - It agreed that the level of service provided to Mr R fell short and offered an apology. It acknowledged that he was forced to make repeated contact in relation to the same issue.
 - The reason Mr R was unable to set up his online account was identified and the home insurance department was in the process of updating his home address. After which, his home insurance policy account would be linked to the online account he has for his pension. As Mr R's email address was now verified, L&G would be able to help him via email in the future without the need for him to call to answer security questions.
 - In Mr R's letter to the Trustees, he claimed he was not aware that he could make changes to his investments using alternative methods such as phone or email. But the member booklet for the Plan confirmed the ways he could change his investments. The booklet was available on the Plan's website and should have been sent to him by his employer.
 - Mr R did not make L&G aware of any investment instructions so it would not have known that he wanted to make additional investments when he was trying to sign up for an online account. All the investment information, including available funds, was available on the Plan's website.
 - L&G apologised for the level of service Mr R had received and offered £100 as compensation.
30. Mr R was dissatisfied with L&G's response and on 30 March 2021 he requested that his complaint be considered under Stage Two of the Plan's IDR. He said:-
- He does not recall receiving a member booklet, so he had no knowledge of being able to change investments over the telephone.
 - The reason he did not give L&G any investment instructions was that he did not have access to his online account which from his knowledge and based on the information L&G sent him (the letter dated 28 April 2020) was the only way he could change his investments.
 - It was ridiculous for L&G to claim he did not give investment instructions when he has been in contact with L&G for over 6 months trying to gain access to his online account. This should have suggested that he was trying to login to make changes to his investments.

31. On 31 March 2021, L&G sent Mr R an acknowledgment that his complaint was being escalated to IDRPs Stage Two.
32. On 12 May 2021, L&G issued its Stage Two IDRPs response. It stated that:-
 - It disagreed that Mr R was given inadequate information. An automatic enrolment letter was sent to him on 22 October 2019, which directed him to the Plan website if he wanted to review funds and make changes to his investments.
 - The document library section of the Plan website included a variety of information and documents, including the member booklet and investment information.
 - It disagreed with Mr R that contacting L&G to gain access to his online account was sufficient evidence to suggest that he would have made changes to his investments. Also, without specific investment instructions, it could not categorically confirm which funds he wanted to invest in and on which dates.
 - After completing a full review of his transactions, it could see that Mr R had not made any changes since gaining access to his online account and, since there is no evidence to suggest that he would have made any changes, it could not consider any losses he may have incurred.

Adjudicator's Opinion

33. Mr R's complaint was considered by one of our Adjudicators who concluded that no further action was required by L&G.
34. The Adjudicator's findings are summarised in paragraphs 35 to 42.
35. There was no dispute that Mr R was unable to access his online account between August 2020 and February 2021. However, in order for Mr R's complaint to be upheld, there needed to be evidence that maladministration had occurred, and this had resulted in him suffering a financial injustice.
36. Mr R could not access his online account because he was trying to sign up using an email address that was already registered with L&G for his home insurance policy. The Adjudicator considered whether L&G's service fell short when identifying the underlying problem. The available evidence suggested that L&G did not detect the issue with Mr R's email address for six months however, once the problem was identified it acted promptly to resolve the matter.
37. It was unfortunate that it took L&G six months to realise that Mr R's email address was already in use for another one of its products, however, given the context of the pandemic and how it affected business operations globally the delay was not unreasonable. L&G and many other organisations were operating a reduced service during that time which would have impacted its response times.

38. There was no doubt that Mr R was inconvenienced by the fact that he could not access his online account. However, after considering all the evidence the Adjudicator was satisfied that this did not significantly impact him in a way that caused him to incur a financial loss.
39. L&G had explained that if Mr R was interested in investing in a different fund, he could have given investment instructions by email or telephone. As Mr R had alternative avenues for requesting fund switches and was not solely reliant on the online account the Adjudicator's view was that Mr R was not prevented from making or altering his investments.
40. Although Mr R said that as he did not receive the member booklet when he joined the Plan, so to his knowledge the only way of effecting investments was through the online account, Adjudicator took the view that even if Mr R did not have knowledge of the alternative options for effecting investments, once he realised in August 2020 that he could not access his pension online, the most reasonable action to take would have been for him to contact L&G to query alternatives to making investment changes online. Had Mr R acted in this way, he would have been informed that other options were available to him and consequently requested any required fund switches.
41. Additionally, the member booklet was not the only literature L&G issued to Mr R to inform him about how the Plan functioned and how he could manage his investments, he was also sent an enrolment letter on 22 October 2019 and further Plan information was available online.
42. The Adjudicator noted that L&G wrote to Mr R on 4 December 2020 and informed him, in detail, about all the ways in which he could give investment instructions. However, there was no evidence that after receiving this information Mr R took any steps to change or amend any of his investments. In the Adjudicator's opinion, the £100 offered by L&G in relation to non-financial injustice was adequate given the circumstances.
43. Mr R did not accept the Adjudicator's Opinion and asked the Adjudicator to reconsider. He provided the following comments:
 - He is apprehensive about using his telephone and cannot use one as a means of communication due to his work commitments. Which is why he wanted to access his pension online.
 - The argument that he did not make changes to his investments after December 2020 was flawed because by this time the market had recovered. The best time to maximise gains in the stock market was after the crash in March 2020.
44. The Adjudicator took Mr R's comments into consideration but concluded that these did not change her Opinion. She stated the following:

- She appreciated that Mr R was unable to contact L&G due to his work commitments however this did not prohibit him from requesting fund switches by email.
- Mr R may have been interested in changing his investments in March 2020 however he did not contact L&G and raise the issue in relation to his online account until 27 August 2020. He also did not inform L&G that his interest in the online account was for the purposes of making changes to his investments until his formal complaint on 21 November 2020. L&G promptly responded to this on 4 December 2020 and explained all the ways he could alter his investments moving forwards.

45. Mr R disagreed with the Adjudicator and the complaint was passed to me to consider.

46. Mr R provided some additional comments which are summarised below:

- L&G has impacted his ability to increase his savings by preventing him from changing his investments between March 2020 and December 2020 and therefore caused him to incur a financial loss.
- It should have been apparent to L&G that he wanted to access his online account to make changes to his investments.

47. I have considered these points, but they do not change the outcome. I agree with the Adjudicator's Opinion.

Ombudsman's decision

48. Mr R complained that L&G has caused him to incur a financial loss because he could not access his online account to change his investments in the Plan and he therefore missed out on investment opportunities between March 2020 and December 2020.

49. It is important to note that in common law, the duty to mitigate requires an individual to take reasonable steps to prevent or minimise potential losses. Thus, Mr R had a duty to mitigate any potential financial loss that could result from a failure to capitalise on the perceived investment opportunities that arose between March 2020 and December 2020.

50. After reviewing all the available evidence, I consider that Mr R could have taken reasonable steps to carry out his desired investment opportunities. During the period when he was unable to request fund switches online, he could have sought guidance from L&G about alternative ways to change his investments. While I acknowledge that Mr R preferred to amend his investments using his online account, he could have used any of the other options available to him instead of waiting for access to his online account. By failing to query and use the alternative options, I consider that Mr R accepted any potential negative impact his inaction could have on his funds in the Plan.

51. Mr R has said that it should have been apparent to L&G that the reason he was trying to access his online account was to make changes to his investments.
52. I do not agree with this assertion. The online account did not exist for the sole purpose of making changes to investments. The online function also allowed members to view the value of their investment portfolio, update their personal details and access financial guides, amongst other things. So, without Mr R clearly communicating his intentions, L&G could not reasonably have known why he was trying to sign into his online account.
53. In conclusion, I do not doubt that being unable to register for an online account will have caused Mr R some inconvenience however with reasonable diligence he could have made his desired investment decisions via other means.
54. The reason that Mr R was unable to register for an online account has been explained in detail and while it took some time for L&G to resolve this issue, I do not consider its actions to amount to maladministration. It is not uncommon for individuals to encounter problems when registering for an online account of any sort and while this may not be ideal, these issues cannot always be avoided. Despite the issues Mr R experienced in registering for an online account I do not agree that L&G's actions have caused him to incur a financial loss.
55. I do not uphold Mr R's complaint.

Dominic Harris

Pensions Ombudsman
28 April 2023