

## Ombudsman's Determination

Applicant	Mr S
Scheme	Legal & General Group UK Senior Pension Scheme ( <b>the Scheme</b> )
Respondents	The Trustees of the Legal & General Group UK Pension and Assurance Fund ( <b>the Trustee</b> )  Trafalgar House Pensions Administration ( <b>the Administrator</b> )

## Outcome

1. I do not uphold Mr S' complaint and no further action is required by the Trustee or the Administrator.

## Complaint summary

2. Mr S has complained that the Trustee and the Administrator made errors during the transfer process that resulted in the transfer of his Cash Equivalent Transfer Value (**CETV**) being delayed. This meant his funds were out of the market for two weeks.
3. Further, Mr S says that he received very poor service from the Administrator; its inadequate processes also delayed the transfer. Mr S has asserted that the Administrator has acknowledged that the design of its internal processes is such that making a transfer within its own stated service standards is impossible.
4. Mr S believes the Trustee and Administrator have both failed in their duty to treat customers fairly and ensure client money is properly managed and not withheld unreasonably. Having acknowledged their administrative failings in this case, the Trustee and the Administrator have demonstrated no inclination to review their systems to prevent similar issues arising in the future.

## Background information, including submissions from the parties.

5. The sequence of events is not in dispute, so I have only set out the salient points. I acknowledge that there were other exchanges of information between all the parties.
6. Mr S was a deferred member of the Scheme, which is a final salary arrangement.

7. On 8 February 2019, in response to his request, the Administrator wrote to Mr S and enclosed a Transfer Pack (**the Transfer Pack**). A CETV illustration of £281,938.12 was supplied with the Pack. The CETV was guaranteed until 29 April 2019.
8. The Transfer Pack included a “Pension Scams Questionnaire” to be completed by Mr S. This asked a series of questions designed to identify any potential ‘red flags’ that might indicate the receiving scheme was a scam.
9. Notes in the Transfer Pack (**the notes**), under the heading ‘Next Steps’, stated that if the CETV was more than £30,000, Mr S had to take advice “from an appropriately qualified and FCA approved adviser” before the Administrator could pay his transfer.
10. The notes also stated that, once the completed documents had been received, it would take between five and ten working days for the transfer to be paid and could possibly take longer.
11. On 27 February 2019, following a meeting the same day to discuss a possible transfer of his pension, Mr S’ independent financial adviser (**the IFA**) wrote to the Administrator and enclosed a signed Letter of Authority (**LOA**). The IFA requested a copy of the Pack that it had recently sent to Mr S. The IFA also asked the Administrator a number of questions about the Scheme. He emailed a copy of his letter to the Administrator the same day.
12. On 6 March 2019, the Administrator responded to the IFA, and enclosed a Retirement Quote Pack dated 28 February 2019.
13. On 22 March 2019, the IFA emailed the Administrator to follow up the information request he had submitted on 27 February 2019. He explained that he needed the information urgently, as the CETV was due to expire on 29 April 2019.
14. On 2 April 2019, the Administrator responded to the list of questions it had received from the IFA.
15. On 8 April 2019, the IFA telephoned the Administrator to request a Summary Funding Statement. He also requested answers to further questions he had raised regarding the possibility of Mr S taking early retirement before age 55 or retiring due to ill health.
16. On the same day, the Administrator responded to the IFA’s questions regarding Mr S taking early retirement on normal health grounds or ill health retirement. It also attached a copy of the Summary Funding Statement in its email.
17. On 15 April 2019, the IFA requested a Transfer Application Pack (**the Application Pack**).
18. On 16 April 2019, the IFA issued his “Suitability Letter” setting out the reasons why he was recommending that Mr S transfer his pension from the Scheme to a Self-Invested Personal Pension (**SIPP**).

19. On 18 April 2019, Mr S completed an application for a SIPP with Alliance Trust Savings, (**ATS**). The section of the application headed "Investment instructions" had been crossed through and the fields left blank. The introduction to this section said:

"If you have not yet decided which investments you would like to make, you may leave this section blank and your cash will be placed on deposit until we receive further instructions from you. We do not currently pay interest on cash deposits within our platform product range".
20. Mr S also completed ATS' transfer-in request form. Under the heading "Investment instructions" this form said:

"When we receive your cash we will hold it in your account as cash".
21. The IFA sent the application forms, Transfer In Request Form & Safeguarded Form together with a copy of the Transfer Pack, and the Receiving Arrangement Application to ATS the same day in the post and by email. The covering letter instructed ATS to complete the Receiving Arrangement Application and email it to the Administrator as soon as possible before the 29 April deadline.
22. Also on 18 April 2019, the IFA emailed the Administrator and attached the following:
  - the completed Transfer Pack;
  - a copy of the Suitability Letter;
  - a certified copy of Mr S' driving licence;
  - a copy of ATS' SIPP Application Form
  - the SIPP Transfer-In Request Form & Safeguarded Form
23. The IFA confirmed that the original copies of ATS' documents had been sent directly to ATS. He also confirmed that he would send the Administrator the completed Receiving Arrangement Application form shortly.
24. On 24 April 2019, the Administrator wrote to the IFA and explained that its transfer application requirements were incomplete for the following reasons:-
  - Mr S had indicated in the pension scams questionnaire, included as part of the Transfer Pack, that he had been told he would be able to have a higher tax-free cash sum by transferring. It required further information regarding this and had returned the Member Application so that Mr S could update the questionnaire.
  - It had not yet received the completed Receiving Arrangement Application from ATS.
25. On 25 April 2019, ATS confirmed to the Administrator that Mr S wanted to transfer his Scheme benefits to his SIPP. It enclosed the Receiving Arrangement Application and the completed discharge forms, together with additional information that the

Administrator might require including a copy of the SIPP's pension scheme tax reference.

26. On the same day, Mr S wrote to the Administrator and provided further detail about tax-free cash it had requested in the letter it had sent him on 24 April 2019.
27. On 29 April 2019, the Administrator wrote to Mr S and asked for further clarification regarding the higher tax-free cash.
28. On 30 April 2019, Mr S provided the additional information the Administrator had requested.
29. On the same day, the Administrator emailed Mr S to confirm that it had received all the relevant paperwork to complete the transfer. The Administrator also sent Mr S a letter confirming that all its requirements had been met. It said that it would be processing his application.
30. On 16 May 2019, the Administrator wrote to Mr S to confirm that it had completed the transfer of his benefits to the SIPP. It also confirmed that the final transfer value was £281,938.12, and that this would be paid to the SIPP within five to ten working days. However, on the same day the Administrator also wrote to ATS to confirm that it would make the transfer payment by direct transfer "in the next couple of working days".
31. On 28 May 2019, Mr S complained to the Administrator about the service he had received during the transfer process.
32. On the same day, the Administrator wrote to Mr S in response to his complaint and said:-
  - It acknowledged that it had not met its usual service standards because it had failed to keep Mr S up to date with the progress of his case, for which it apologised. It noted that it had previously explained its processes for validation of the receiving scheme, monthly cashflow procedures and disinvestments. While it endeavoured to settle transfers within five working days of receipt of completed documentation, it had to adhere to these processes.
  - It had received all the necessary information to proceed with the transfer payment on 29 April 2019. This was then settled on 16 May 2019, 12 working days after it had received the outstanding information.
  - It accepted that this was outside the five working days under the service level agreement with the Trustee. However, there was some flexibility within the agreement in circumstances where information was required from the member or a third party.
  - Under pensions legislation, trustees of occupational pension schemes were required to pay the transfer value to the receiving arrangement within three months of receiving the full transfer documentation. Consequently, it did not

consider that the 12 working days it took to complete the transfer amounted to an excessive delay.

- It did not, at any stage, seek to withhold payment of the transfer value.

33. Mr S did not accept this response and continued to pursue his complaint.

34. On 9 December 2019, the Trustee sent its formal response to his complaint under the Scheme's Internal Dispute Resolution Procedure (**IDRP**). In summary, it said:-

- The CETV illustration was issued to Mr S on 29 January 2019, with a guarantee date of 29 April 2019.
- Mr S did not request the Application Form until 15 April 2019 and did not return it to the Administrator until 18 April 2019. Based on the information he had provided, the Administrator was required to carry out additional checks which were completed on 29 April 2019. The Administrator confirmed to Mr S on 30 April 2019, that it had received all of the necessary information to proceed with the transfer.
- Following the date of receipt of the final information a cashflow check was carried out. As this indicated a disinvestment was required, this had to be raised and checked and paid out with the transfer being paid on 16 May 2019, 12 working days later.
- The Trustee regretted that the transfer process did not run as efficiently as it would have expected and that Mr S was not kept fully informed at all times. However, for the reasons explained it did not uphold his complaint.

## **Adjudicator's Opinion**

35. Mr S' complaint was considered by one of our Adjudicators who concluded that no further action was required by the Trustee or the Administrator. The Adjudicator's findings are summarised below:-

- 35.1. The Trustee and the Administrator have agreed that the process, following receipt of the necessary information to proceed with the transfer, took longer to complete than they would have preferred. They also agree that Mr S was not kept fully updated, so there is no dispute That the service provided was not perfect.
- 35.2. Mr S contends that, but for the Administrator's delays, he could have invested his CETV some weeks earlier than he did.
- 35.3. The transfer value quoted in the CETV illustration was guaranteed for a period of three months. Consequently, Mr S was aware at the outset that there was a finite time during which the CETV he had been offered would be guaranteed.

- 35.4. Mr S did not meet with his IFA until a period of almost three weeks had elapsed. Following that meeting, neither Mr S nor the IFA requested the Application Form until 15 April 2019, two weeks before the guarantee period expired. His IFA did not return the completed Application Form until 18 April 2019.
- 35.5. The SIPP application was also not completed until 18 April 2019. This, together with the fact that the Administrator was waiting for outstanding information from Mr S, was the reason specified in correspondence both with Mr S and with his IFA that the transfer could not be completed.
- 35.6. In the Adjudicator's view, the delay in completing the actions specified in sub paragraphs 35.4 and 35.5 above contributed to the overall delay.
- 35.7. Mr S' application to transfer was received within the guarantee period. While there were still validation and cashflow checks left to carry out, the Administrator confirmed that Mr S would receive the guaranteed CETV that had been quoted on 29 January 2019.
- 35.8. The Adjudicator acknowledged that the validation and cashflow checks took until 16 May 2019 to complete. She also acknowledged Mr S' assertion that some of the validation checks could have been completed simply by looking up information online.
- 35.9. However, she considered that a cashflow analysis would not have been a straightforward exercise. She was also of the view that it was a necessary check, as its purpose was to ascertain whether the fund representing the CETV had to be disinvested prior to transfer. Having carried out these steps, the information obtained had to be checked. The Adjudicator did not consider that a timeframe of 12 working days to complete the transfer payment process was unreasonable in the circumstances.
- 35.10. The Adjudicator pointed out that many factors come into play when purchasing new assets using proceeds of a disinvestment the actual date of which cannot be specified in advance. Consequently, Mr S could perhaps have obtained a lower price on the assets he invested in, had he been able to purchase them sooner. But he might equally have been able to obtain a better price had he waited. The Adjudicator did not believe the Administrator or the Trustee could be held liable if Mr S did not obtain the optimum price on his new investments after the CETV was completed.
- 35.11. With regard to Mr S' complaint of poor service, the Adjudicator noted that the Administrator and the Trustee had expressed their regret that the standard of service Mr S had received was lower than they would have liked. She also noted that the parties had apologised for this.
- 35.12. The Adjudicator did not agree that the alleged flaws in the transfer process were to blame for any delays that occurred during the transfer of Mr S'

benefits. She pointed out that, in any event, the Pensions Ombudsman did not have the power to require pension managers to change their processes and practices. That was a matter for the appropriate regulatory body.

35.13. Having considered the issues raised, the Adjudicator did not conclude that it constituted maladministration. In her view, Mr S and his IFA were generally kept up to date throughout the process. She considered the additional working days that were required to complete the necessary checks were reasonable in the circumstances.

36. Mr S did not accept the Adjudicator's Opinion and the complaint was passed to me to consider. Mr S provided his further comments which do not change the outcome. I agree with the Adjudicator's Opinion and note the following additional points Mr S has raised:-

36.1. The Adjudicator said that he contributed to the delays in completing the transfer because he did not involve his IFA at an earlier stage in the process. This is incorrect; he could not do this as he did not have an IFA at the time.

36.2. He has worked in the regulated financial service sector throughout his career. His complaint was based on regulations which he knows exist to ensure customers are treated fairly. The service he received fell short of what is expected and the Administrator acknowledged this while also stating it was not prepared to change its process. He did not complain on a whim. He is genuinely concerned that more vulnerable consumers will have to accept the same unfair treatment.

36.3. He had previously consolidated other pensions into a SIPP. This is not a regulated activity that requires an IFA. He has carried out pension transfers before but these simply involved the switching of SIPP provider.

36.4. He was previously a CEO of a network of IFAs. At the time, IFAs specialising in pension transfers were plentiful but have subsequently become rare. This is why it took time for him to appoint an IFA and to start the process. However, despite this, he considers that he and his IFA provided all of the information in a timely fashion.

36.5. He considers the Administrator responsible for the delay for the following reasons:-

- It waited until the day the funds were due to be transferred to carry out due diligence on the IFA (which is publicly available information on the FCA register).
- It delayed checking whether the Scheme had sufficient liquid assets to make the transfer payment.
- It also delayed carrying out a review of the whole transfer and obtaining the necessary authorisation from a senior manager.

- 36.6. These delays on the part of the Administrator were wholly avoidable. The Administrator has acknowledged its transfer process is flawed and the outcome will always be that transfers will be delayed as a result, and yet it refuses to change its process.
- 36.7. The fact that the Administrator was aware that he needed the transfer by the end of April 2019 but failed to check whether the Scheme had sufficient liquid assets until May 2019, amounts to a fundamental flaw in its process. As a result, there was a delay of over two weeks when his funds were not invested. The Adjudicator's view that markets can go up or down meaning the delay could potentially benefit him is a poor argument. The fact is, the Administrator held on to his money for two weeks without good reason and he should be compensated for its inadequate processes.
- 36.8. A regulated entity has a duty to treat customers fairly. The Administrator has admitted that its internal processes mean it is impossible for it to comply with its own published service level agreement. The delay in completing the transfer is the outcome of the way its processes operate. Despite its admission, it says it will not make changes to deliver the service level that it has promised. Other members will also be treated unfairly as a result.
- 36.9. With regard to the investment of his funds, he was not asked to provide evidence of the specific funds he had selected. The SIPP which was to receive the transfer was set up with Hargreaves Lansdown many years previously and was already funded from other transfers. It had a clear mandate for the investment of any new funds. A period of more than three and a half years has elapsed since his transfer from the Scheme and so it is no longer possible for him to prove how a dozen different funds moved during the period of 16 days when the transfer was delayed. In his view, the issue is that the deliberate policy on the part of the Administrator, to delay the release of the funds, means he had no choice in the matter.

## **Ombudsman's decision**

37. My role is to consider complaints of maladministration causing the complainant financial injustice. Where maladministration is found, I would try to put the complainant back into the position they would have been had the maladministration not occurred.
38. I agree with Mr S that the number of IFAs able to provide advice in connection with a pension transfer has decreased significantly in recent years. This is largely due to the increase in the cost of professional indemnity insurance as a result of several cases of poor advice leading to customer detriment that have been identified. However, in my experience, most IFAs, certainly those of any size, will have a business arrangement with a firm authorised to provide such advice even if they are unable to



do so themselves. I consider that Mr S should therefore have been able to find a suitable IFA fairly easily.

39. Mr S says that the Adjudicator's Opinion is based on an assumption that he contributed to the delay by not involving his IFA sooner.
40. The evidence indicates that the Administrator provided Mr S with the Transfer Pack on 8 February 2019. The notes in the Pack stated that if the CETV was more than £30,000, he had to take advice "from an appropriately qualified and FCA approved adviser" before the Administrator could pay his transfer. So Mr S would have been aware of the need to appoint an IFA from the date he received the Transfer Pack.
41. On 27 February 2019, Mr S' IFA emailed the Administrator asking for a copy of the Pack and requesting 19 other items of information about the Scheme and Mr S' benefits. It is not clear from the evidence when the IFA became involved but it was not until some four weeks after the effective date of the transfer value that it contacted the Administrator. Given the urgency that Mr S has since expressed regarding his wish to complete the transfer, this seems to me to be a significant delay which was outside the Trustee's and the Administrator's control.
42. It is a statutory requirement, under the Pension Schemes Act 2015, for a pension scheme member to take advice before transferring safeguarded benefits. I acknowledge that it cannot simply be assumed that Mr S would have been aware of this requirement from his previous roles in the financial services sector. However, the guidance provided by the Administrator was explicit in stating that he would require advice if he wanted to proceed with the transfer. So, I do not find that it is the Administrator's responsibility that he did not do so earlier.
43. The notes included in the Transfer Pack also stated that:-

"If you would like to transfer, you will need to complete and return an Application Pack. Information on how to get one is included in the Guide. If we receive correctly completed documents before the date shown in your Transfer Quote then, generally, the transfer will be paid between five and ten working days from the date we receive a full and complete Application Pack. However it could take longer than this and the reasons why are explained in the Guide."
44. A retirement quotation, which answered many of the questions regarding Mr S' benefits, was issued to the IFA on 6 March 2019. There seems to be some confusion as to when this was received. However, it was certainly received before 22 March 2019, as on that date the IFA emailed the Administrator acknowledging receipt of the information. The IFA did, however, have to remind the Administrator that answers to nine further questions remained outstanding.
45. On 2 April 2019, the Administrator emailed the answers to the remaining questions. And, on 8 April 2019, following a further request from the IFA earlier that day, the Administrator sent a copy of a Summary Funding Statement and also answered an

additional question regarding retirement before age 55. So, it would appear that the IFA had all the information it required on 8 April 2019.

46. The IFA completed and signed the 'Pension Transfer with Safeguarded Benefits' advice confirmation on 18 April 2019, the same day that Mr S completed and signed the application to establish the ATS SIPP. These were posted, together with the completed Transfer Pack, the SIPP Transfer In Request Form and the pension scams questionnaire, to the Administrator on the same day.
47. The Administrator acknowledged receipt of these documents, on 24 April 2019, but requested clarification from Mr S regarding a statement he had made in the pension scams questionnaire about receiving higher tax free cash. The Administrator received the confirmation it required on 26 April 2019. The same day, the Administrator received the completed transfer documentation from ATS.
48. The Administrator says it was not until 29 April 2019, the date the transfer guarantee expired, that it received all the information it required to proceed with the transfer request. Given it was the next working day, this seems not unreasonable. Mr S points out that the Administrator had erroneously said that the information was incomplete, but this was quickly corrected and at this late stage in the transfer process I consider was immaterial to the outcome.
49. The Administrator subsequently had to carry out further checks to ensure the transfer was to a suitable arrangement. Some of this would have related to the validity of the receiving scheme and the adviser, but also reviewing the information provided by Mr S in the pension scams questionnaire. Given the heightened awareness of pensions liberation and 'scams', there is an expectation on transferring scheme managers to diligently carry out such checks and, particularly bearing in mind the amount of the transfer value in this case, I certainly would not criticise the Administrator for this.
50. The Administrator also had to consider whether a disinvestment was necessary. It is reasonable for the Trustee to ensure that, where possible, any outgoing payments are met by liquid assets in the Trustee bank account or incoming cashflow and that disinvestments are kept to a minimum. This is particularly the case where, as in this instance, the outgoing payment is a sizeable amount. Consequently I find this to be an appropriate course of action for a responsible trustee to take.
51. Mr S considers the actions taken by the Administrator in connection with the transfer should have been completed at an earlier stage in the process. On reviewing the evidence, I do not find that this would have been possible until the Administrator had received the completed documents. Until that point, it could not be certain that Mr S was proceeding with the transfer.
52. Furthermore, the notes in the Pack stated that, once the completed documents had been received, it would take between five and ten working days for the transfer to be paid and could possibly take longer. In fact, it took 12 working days. I note that the Trustee agreed to honour the transfer value while these checks were being carried out.

53. With regard to the investment of the transferred funds, Mr S says that the SIPP had been set up many years previously with a clear mandate for the investment of any new funds. However, the evidence shows that the ATS SIPP was newly established to receive the transferred funds. The SIPP application form and the transfer-in request Form indicate that at the outset there was no clear investment mandate in place and that the transferred funds would initially be held as cash and would earn no interest. Consequently, I find that the question of whether the period of 12 working days amounts to an excessive delay does not materially change the outcome as there is no evidence to show that Mr S has suffered any loss as a result.
54. There is no evidence to support Mr S' assertion that the Administrator deliberately delayed the release of his funds, and I find there is no reason for it to have done so. The Administrator has agreed that the transfer process did not run as smoothly as it would have liked and has apologised for this. I consider this sufficient. It is important to recognise that poor administration is sometimes simply that, without it amounting to maladministration.
55. For the reasons set out in paragraphs 40 to 54 above, I do not find that Mr S has suffered a loss as a result of any alleged maladministration on the part of the Trustee or the Administrator.
56. I do not uphold Mr S' complaint.

**Anthony Arter CBE**  
Deputy Pensions Ombudsman  
27 January 2023