

Ombudsman's Determination

Applicant	Mr D
Scheme	The Carey Pension Scheme SIPP (the SIPP)
Respondents	Carey Pensions UK LLP (Carey Pensions)

Outcome

1. I do not uphold Mr D's complaint and no further action is required by Carey Pensions.
2. My reasons for reaching this decision are explained in more detail below.

Complaint summary

3. Mr D's complaint is that Carey Pensions caused a delay in the transfer of his pension to a new provider. This resulted in a loss of income in the invested funds of approximately £3,500.

Background information, including submissions from the parties

4. Mr D had a SIPP administered by Carey Pensions. He requested a transfer on 12 June 2015, and was informed that an original, signed transfer out form would be required. Mr D sent this on 17 June 2015.
5. Mr D's transfer was completed on 7 October 2015, when the surrender value was received from Friends Provident International (**FPI**), the administrator who held Mr D's investments under the SIPP and is based on the Isle of Man.
6. Mr D indicated at the outset that he wanted an expedient transfer to his new provider. As he was dissatisfied with the length of time being taken and the lack of timely communication he was receiving, he made a formal complaint to Carey Pensions on 31 August 2015.
7. The timeline of key events is set out in the Appendix to this Determination.
8. Carey Pensions issued its formal complaint response on 15 October 2015. It apologised for the service Mr D received, which it said fell short of that which it prides itself in offering. Therefore, Carey Pensions upheld Mr D's complaint because it did not provide him with timely information regarding his transfer request and its status.

As a gesture of goodwill, Carey Pensions offered to waive the transfer out fee of £150 plus VAT.

9. Mr D responded to Carey Pensions on 20 October 2015. He said:

“I understand that you uphold my complaint relating to the poor communication your company provided me...I however do not see that you have upheld my complaint relating to the length of time to surrender.

Whilst I understand that you may have had issues with [FPI] and them requiring additional information, they informed you of this on the 25th June 2015. It then took your company a staggering 3 months to get the documentation together and pass it to [FPI] on the 22nd September 2015. They then promptly transferred the cash from the disinvestment and it was in my account on the 7th October 2015.

I had another pension with a previous employer, again held by [FPI] and the complete process from start to finish...took just under 9 days!

I stand by my original complaint that the time to surrender was extremely poor and was completely down to poor management of the process by your company, and indeed lack of expedient communication to [FPI] that held the process up.

Since moving my funds...on the 7th of October my funds have risen by £2150. Detailed analysis shows that should I have had the transfer completed within 1 month I would have increased my portfolio by some £3953, and even after 2 months I would have been up by £3126.

I therefore suggest that your goodwill gesture of waiving the £150 transfer fee goes nowhere near resolving my complaint and my lost pension revenue.”

10. As Carey Pensions had already provided its complaint response, Mr D complained to the Financial Ombudsman Service and then sought the assistance of The Pensions Advisory Service (**TPAS**).
11. On 19 April 2016, Carey Pensions provided a response to TPAS in relation to Mr D's complaint. It concluded that it had acted appropriately as the administrator of Mr D's SIPP for the following reasons.
- It requested a full surrender of Mr D's investment portfolio within five working days, in line with its internal processes.
 - It had no control over FPI's turnaround times. FPI received and processed its sale instructions and the first sale settled on 9 July 2015. With the exception of one fund, all other investments settled on 14 July 2015. Mr D had been informed on 1 July 2015, that this particular fund had restricted dealing. It did not settle until 16 September 2015. The transfer out and closure of the FPI portfolio could not be carried out until all the funds had settled.

- The actual sale proceeds after deducting FPI's transaction costs were £117,045.37. After FPI deducted surrender and associated penalties totalling £7,773.85, the net proceeds received into Mr D's account was £109,142.65 (including interest).
 - Mr D received interest on his money whilst it was held by FPI in cash.
 - Markets in the UK fell considerably between 9 July and 7 October 2015. This means the buying power of Mr D's capital in October would be viewed as more favourable than in July.
12. Carey Pensions concluded its communications could have been better at times and that it could have been more proactive, rather than reactive. However, the case was not clear cut and it did its best to find a solution to the notary issue but it found FPI unhelpful. Carey Pensions confirmed its original offer of the refund of the transfer out fee, but maintained it was not responsible for any financial losses that Mr D deems he incurred.

Adjudicator's Opinion

13. Mr D's complaint was considered by one of our Adjudicators who concluded that no further was required by Carey Pensions. The Adjudicator's findings are summarised briefly below.
- Although it is evident that Mr D's transfer took around four months to complete, the delays cannot be fully attributed to Carey Pensions.
 - There were various requirements that had been imposed by a third party (FPI), which were outside the control of Carey Pensions.
 - FPI were first instructed on 25 June 2015. It requested the original policy on 6 July 2015, and Carey Pensions replied on the same day that it did not have the original policy. On 9 July 2015, FPI informed Carey Pensions that it would require a completed Loss of Policy Declaration Form. An exchange of correspondence followed in relation to who could complete the form. In the Adjudicator's view, Carey Pensions sought to resolve the issue with FPI in order to progress the transfer. This is evident by Carey Pensions subsequently raising a complaint with FPI.
 - When the relevant information was eventually accepted by FPI on 22 September 2015, Carey Pensions took the relevant actions promptly and without delay.
 - There is evidence that Carey Pensions updated Mr D during the period in question.
 - Carey Pensions accepts that it could have acted more proactively as opposed to reactively. In recognition of this, it offered to refund the transfer out fee of £150

plus VAT. It was the Adjudicator's view that this was reasonable in the circumstances.

- It is unfortunate that this transfer did not complete as quickly as Mr D expected. However, taking everything into consideration, the Adjudicator did not find that it could have been completed any sooner or that Carey Pensions were directly at fault for any delay.

14. Mr D did not accept the Adjudicator's Opinion and the complaint was passed to me to consider. Mr D provided his further comments which do not change the outcome. I agree with the Adjudicator's Opinion, summarised above, and I will therefore only respond to the key points made by Mr D for completeness.

15. Mr D's additional comments can be summarised as follows.

- The fact that the completion did not occur until 22 September 2015, can only be attributable to Carey Pensions losing the policy document in the first place and its failure to react quickly to FPI's request for the Loss of Policy Declaration Form, as a solicitor could have signed the form within a week.
- There was a lack of communication between Carey Pensions; FPI; Carey Pensions; and Mr D. Most of his numerous calls and emails went unanswered. Carey Pensions have admitted that its communication was not up to the standard it would expect.
- The loss of earnings to his pension comes to a considerable amount, between £3,000 and £4,000 and this is due to maladministration by Carey Pensions, its lack of communication and lack of expediency.
- If he had been in charge of the case, he would have completed the declaration form on the same day and got a private solicitor to sign it off so that the process was not delayed.
- Mr D believes that the blame can be attributed to Carey Pensions' lack of commitment and resources to get the transfer completed in a timely manner.
- Numerous sources have confirmed that the completion time in a worst case scenario is four weeks. Consequently, it is unacceptable that his transfer took over three months to complete.
- Mr D believes that FPI acted in the correct manner and were only expecting Carey Pensions to deliver suitably annotated paperwork. Therefore, it should not have taken as long as it did.

Ombudsman's decision

16. Mr D is correct in that some transfers can be completed in a relatively short space of time. However, there are occasions where this will not be the case and it may take several months.
17. Looking at the facts, there were two matters which contributed to the time taken to complete Mr D's transfer to his new provider. The first was the restricted dealing on one of the funds Mr D was invested in, and the second was the lack of original policy documentation.
18. Carey Pensions received Mr D's instruction to transfer out on 19 June 2015. After instructing FPI a short while later, Carey Pensions informed Mr D of the details regarding that particular fund. In its email to Mr D of 1 July 2015, Carey Pensions informed him that as the holding only dealt monthly on the first of each month, and had a minimum 20 days' notice requirement, it would not be settled until late August 2015 at the earliest. Mr D did not dispute this at the time.
19. In the end, the settlement of the final fund was made on 16 September 2015, this being the earliest date the total transfer could be paid to the receiving arrangement.
20. There has been no suggestion by Carey Pensions that the missing policy document was due to some fault of Mr D's. Carey Pensions confirmed that it had received the original policy and had scanned it to Mr D's electronic client record. However, it was not possible to locate the original copy. I do not find that this alone amounts to maladministration, but it probably was careless record keeping.
21. It is not unusual for original policy documents to be misplaced over time. Consequently, it is common practice for providers to require the completion of some sort of declaration, in the absence of original documents.
22. In Mr D's case, it is evident that what should have been a fairly straightforward process to complete the Loss of Policy Declaration Form, was anything but. Nevertheless, I am satisfied that Carey Pensions sought to get the form completed in line with FPI's requirement. This requirement seemed onerous and Carey Pensions were not able to overcome it in a way that was satisfactory to FPI. Although, a considerable amount of time was spent on this matter, I cannot find that its actions and attempts to get the form completed amount to maladministration. FPI's insistence for a notarised form by a solicitor qualified in the Isle of Man, was not of Carey Pension's making. The form was eventually signed by a suitable person from Carey Pensions and accepted by FPI, without the need for notarisation by a solicitor qualified in the Isle of Man; demonstrating that Carey Pensions found a solution to this particular issue. It further indicates that the delay was not of its making.
23. In view of the above, Mr D's recent comments do not change the outcome. I agree with the Adjudicator that although the transfer took longer than Mr D expected, the main reasons for this were outside of Carey Pensions' control.

24. I have noted Carey Pensions' admissions that its communication with Mr D could have been better. Despite this, I do not find that its communications were so lax as to amount to maladministration. In the circumstances, as there has not been a finding of maladministration against Carey Pensions, it is not necessary for me to consider whether Mr D has suffered a financial or non-financial injustice.
25. Carey Pensions' offer to Mr D is still open for acceptance by Mr D. I make no direction for further compensation and if Mr D wants to accept the offer, he should contact Carey Pensions directly to do so.
26. Therefore, I do not uphold Mr D's complaint.

Anthony Arter

Pensions Ombudsman

21 February 2017

Appendix

Timeline of events

Date	Source	Category	Content
12/06/2015	Mr D	Email	Notifying Carey Pensions of his decision to move his SIPP to Hargreaves Lansdown
16/06/2015	Carey Pensions	Email	Transfer out form provided to Mr D
16/06/2015	Mr D	Email	Provided Carey Pensions with an electronic version of the completed transfer out form
17/06/2015	Carey Pensions	Email	Informed Mr D that the original signed copy of the transfer out form was required
17/06/2015	Mr D	Email	Confirmed to Carey Pensions that he would send the original form
19/06/2015	Carey Pensions		Received Mr D's completed transfer out form
19/06/2015	Mr D	Email	To Carey Pensions; requested confirmation that form had been received
23/06/2015	Mr D	Email	To Carey Pensions; said he was "getting somewhat concerned" that online accounts showed no evidence that funds were being sold
25/06/2015	Carey Pensions	Email	To Mr D; awaiting information from receiving scheme before instructing surrender
25/06/2015	Mr D	Email	To Carey Pensions; proceed with instruction to surrender
25/06/2015	Carey Pensions	Letter	To Friends Provident International (FPI); instructed to surrender Mr D's policy
30/06/2015	Mr D	Email	To Carey Pensions; chasing, saying he had lost money since instruction was given
01/07/2015	Carey Pensions	Email	To Mr D; update provided and further information re timescales sought from FPI
01/07/2015	Mr D	Email	To Carey Pensions, expressing dissatisfaction that his request was not actioned before a team member went on annual leave
01/07/2015	Carey Pensions	Email	To Mr D confirming that his request had already been acted upon and timescales were only requested in light of his email
01/07/2015	Mr D	Email	Acknowledgement to Carey Pensions

Date	Source	Category	Content
01/07/2015	Carey Pensions	Email	Update to Mr D confirming: the majority of the positions should settle within a week; one of the holdings only deals monthly on the first of each month and has a minimum of 20 days' notice requirement, this holding would not be settled until late August at the earliest; request for bulk sale proceeds will be made so that a partial transfer would be made to the receiving scheme, with the remaining funds to follow once received
01/07/2015	Mr D	Email	Acknowledgement to Carey Pensions for "very informative" update
06/07/2015	FPI	Email	To Carey Pensions informing it that the sale of all funds would be arranged but the original policy would be required for a full surrender
06/07/2015	Carey Pensions	Email	To FPI confirming that it did not have the original policy schedule and asking how full surrender could proceed
09/07/2015	FPI	Email	To Carey Pensions confirming that it would require a completed Loss of Policy Declaration Form, copy attached
10/07/2015	Mr D	Email	To Carey Pensions requesting an update and querying why the transfer was taking so long
10/07/2015	Carey Pensions	Email	Reply to Mr D confirming that an update would be requested from FPI in relation to the sale
16/07/2015	FPI	Email	To Carey Pensions confirming that the bulk of the holdings had been sold and settled. To proceed further, the original policy or the completed Loss of Policy Declaration form would be required
			As the Loss of Policy Declaration Form required "A Commissioner for Oaths/Notary Public duly authorised to administer Declarations", Carey Pensions says it was in regular correspondence with FPI about its requirement for this.
30/07/2015	Mr D	Email	To Carey Pensions requesting an update
03/08/2015	Carey Pensions	Email	Responded to Mr D informing him that FPI had requested further documentation which required signature by a Notary
07/08/2015	Carey Pensions	Email	Internal Carey Pensions email to Senior Manager requesting approval for payment of £75 for a Notary to sign Loss of Policy Declaration form

Date	Source	Category	Content
15/08/2015	Carey Pensions	Email	Internal Carey Pensions email to CEO requesting approval for payment of £75 for a Notary to sign Loss of Policy Declaration form
20/08/2015	Carey Pensions	Email	Internal Carey Pensions email from CEO approving payment for a Notary
21/08/2015	Carey Pensions	Email	Internal Carey Pensions email to Compliance Team requesting that a Notary be arranged on an urgent basis to sign the declaration form
25/08/2015	Mr D	Email	To Carey Pensions requesting an update
25/08/2015	Carey Pensions	Email	To Solicitor attaching declaration form for completion
27/08/2015	Mr D	Email	To Carey Pensions requesting an update
28/08/2015	Carey Pensions	Email	To Mr D informing him that it had been in continued discussions with FPI about the requirement for a Notary and that FPI had now confirmed that a solicitor could sign the form instead of a Notary
28/08/2015	Mr D	Email	To Carey Pensions expressing his bewilderment at the length of time taken since he instigated the transfer on 12/6/15. He requested daily updates from Carey Pensions
29/08/2015	Carey Pensions	Email	To Mr D apologising that he felt unimpressed with its service and confirming whether he wanted to make a formal complaint
31/08/2015	Mr D	Email	To Carey Pensions making a formal complaint based on processing time of transfer and lack of timely communication with him
01/09/2015	Carey Pensions	Email	To Mr D acknowledging complaint and confirming that it will be referred to its Compliance Team to investigate
02/09/2015	Carey Pensions	Email & Letter	Formal acknowledgement of complaint sent to Mr D
09/09/2015	Carey Pensions	Email	Update to Mr D informing him that it had arranged a solicitor to sign the declaration form and the paperwork should be ready for collection by the end of the week.
10/09/2015	Mr D	Email	To Carey Pensions expressing dissatisfaction that he had been provided with a similar update weeks ago
15/09/2015	Carey Pensions	Email	Internal Carey Pensions email informing that solicitor could not sign the declaration form as there was no one qualified under Isle of Man law at the firm

Date	Source	Category	Content
17/09/2015	Carey Pensions	Email	To FPI complaining about the unnecessary hurdles it continued to place which was preventing Mr D's transfer from progressing
	Carey Pensions	Telephone	Call by Carey Pensions' Head of Compliance to FPI's Claims Team Manager explaining difficulties. FPI confirmed that Carey Pensions' CEO who was also its Money Laundering Reporting Officer could sign the declaration form
22/09/2015	Carey Pensions	Letter	Signed Loss of Policy Declaration Form sent with cover letter to FPI
24/09/2015	Carey Pensions	Email	Update to Mr D informing him that FPI had confirmed receipt of all relevant paperwork and that the funds would be transferred to his bank account within 5 working days
27/09/2015	Mr D	Email	Acknowledgement to Carey Pensions
28/09/2015	FPI	Email	To Carey Pensions asking for confirmation that Carey Pensions' CEO was a Commissioner for Oaths or a Notary Public as the declaration form had been signed by her
29/09/2015	Carey Pensions	Email	Responded to FPI referring to the cover letter of 22/9/15 which confirmed that its CEO had been authorised by FPI to sign the form
30/09/2015	Carey Pensions	Email	Update to Mr D confirming that the funds had been surrendered and that FPI would send the money later that week
07/10/2015	Carey Pensions	Email	Update to Mr D confirming that the surrender value had been received and the money had been issued to the receiving scheme
08/10/2015	Mr D	Email	Update to Carey Pensions confirming that funds had been received by the receiving scheme
15/10/2015	Carey Pensions	Letter	Final complaint response issued to Mr D