

Ombudsman's Determination

Applicant	Mr L
Scheme	Liverpool Victoria Pension Plan 074367 (the Plan)
Respondent	Liverpool Victoria (LV)

Outcome

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

Complaint summary

3. Mr L's complaint against LV is that it processed his transfer from the Plan to the Dewshill Pension Scheme (**the Scheme**) after he had instructed LV not to make such a transfer, and as a consequence his money has been lost.

Background information, including submissions from the parties

4. Mr L established the Plan, a personal pension arrangement, with LV.
5. On 6 July 2011 LV sent blank transfer forms and the current policy value to Mr L following a request received from Mr H, a financial adviser acting for Mr L.
6. On 14 September 2011 HM Revenue & Customs (**HMRC**) sent a letter to Cressar Associates Ltd (**Cressar**), the Scheme administrator, to certify that the Scheme was a registered pension scheme.
7. Mr H visited Mr L at home to discuss a proposed transfer from the Plan to another pension arrangement. Mr L signed a blank transfer discharge form which was witnessed and taken away by Mr H.
8. On 27 October 2011 either Mr L or his father (**Mr X**) rang LV and instructed it not to make any transfer from the Plan to businesses known as Pensions Release or Pensions Online (**the Cancellation Request**). LV noted this instruction on its computer system as follows:

"Do not transfer this policy away to a pension provider in the name of Pensions Release or Pensions Online as they are being investigated by the

FSA and the client does not wish to transfer to them anymore, if any problems call the PH on [] or [].”

9. On 1 November 2011 HMRC sent to Dewshill Ltd (**Dewshill**) and Cressar a contracting out certificate in respect of the Scheme.
10. On 2 December 2011 Cressar sent a letter to LV. This enclosed a transfer request form signed by Mr L and witnessed by Mr H which authorised LV to make a transfer from the Plan. The form named the Scheme as the receiving scheme, and gave contact details for a person at Cressar. The sentence above Mr L’s signature stated: “I agree that your compliance with these requests shall discharge both [LV] and NM Pension Trustees Limited from liability in respect of the above plan.” The date originally written next to Mr L’s signature was amended to read 23 October 2011. Cressar’s covering letter also enclosed copies of the Scheme’s HMRC registration letter and contracting-out certificate.
11. In accordance with these instructions, LV made a transfer payment of £76,995 from the Plan to the Scheme on 21 December 2011.
12. In 2017 Mr X contacted LV on behalf of his son to query the status of the Plan. LV replied that Mr L’s pension fund had been transferred to the Scheme pursuant to his transfer request of 21 December 2011.
13. On 13 February 2017 Mr L (using Mr X’s email address) told LV that the only transfer request had been “to the best of my knowledge to Pensions Release which as you state was cancelled. I have no knowledge of signing authority to transfer funds to Cressar or any other pension provider”.
14. In reply, LV sent back a copy of Mr L’s signed transfer form and said it matched his signature on his original application to transfer to LV. LV said that as the two signatures matched they had processed the transfer request.
15. On 20 February 2017 Mr L emailed LV to confirm that it was his signature on the transfer request, but he said that Dewshill’s details had been added later on, without his knowledge.
16. On 22 February 2017 LV gave Mr L more details about the transfer recipient, transfer date and transfer amount.
17. On 23 February 2017 Mr L told LV:

“It appears Pension Release have used Dewshill to transfer my pension fund to sometime after the transfer document was signed and subsequently altered. This action was carried out after I had cancelled this transaction and done without my knowledge. The transfer document was signed and witnessed by Pension Release staff, no other documents have ever been submitted. In view of the history of requesting transfer and my request to cancel I would like to know how this happened without notification from yourselves. Dewshill and Cressar no longer exist and I have no prior knowledge or communication with

either company. Would your investigators please check on my behalf on what has happened here as I now know that we have been conned and obviously very concerned”.

18. On 23 April 2017 and 23 June 2017 Mr L sent reminders to Mr L. LV told him on 26 June 2017 that its technical team was investigating the matter.
19. On 13 December 2017 Mr L chased LV again as he had not received a response.
20. On 15 December 2017 LV told Mr L that it had asked its technical team for an update, and would contact him the next week.
21. On 29 December 2017 Mr L wrote to LV to inform it that Mr X had authority to correspond on his behalf.
22. On 7 February 2018 LV's Group Financial Crime department sent a letter to Mr X, thanking him for providing documents to show that he was authorised to act on behalf of his son. LV's letter set out the relevant events since 6 July 2011. LV said it had complied with all relevant regulations and legislation at the time of the transfer. Mr H, who apparently had recently died, had been associated in business with Pensions Release, which was now known to have been involved in pensions liberation. LV had also subsequently ascertained that Cressar and the Scheme were not on the Financial Conduct Authority's list of authorised firms and pension scheme providers.
23. LV suggested that as it could not assist Mr L further he should contact Merseyside Police, Action Fraud, The Pensions Advisory Service and HMRC. LV enclosed information about pension scams and links to helpful websites.
24. On 16 March 2018 Mr X asked LV why it had not carried out appropriate checks before making the transfer in 2011.
25. On 21 March 2018 LV replied that it had carried out appropriate checks after receiving Scheme details. It said that the transfer forms had been signed by Mr L, so it had no need to contact him again. Furthermore, in the phone call on 27 October 2017 Mr L had not prohibited a transfer to the Scheme; he had only prohibited a transfer to Pensions Release/Pensions Online.
26. On 22 March 2018 LV sent an email to Mr X's email address which said, "we're pleased we were able to resolve your complaint", and that he could contact the Financial Ombudsman Service (FOS) if he wished to take it further.
27. After Mr L asked FOS to investigate, LV forwarded its file to FOS. LV reiterated that it had carried out appropriate checks on the Scheme. It was registered with HMRC and there had been no cause for concern in view of the scope of the Cancellation Request. Mr L's signature on the transfer request had matched his earlier signature. FOS began an initial investigation but felt it was more appropriate for this Office to look into the matter to which Mr L consented.

28. On 31 July 2018 Mr X contacted this Office on behalf of his son. We asked LV to provide a formal response to the complaint. LV denied countermanding Mr L's instructions, reiterating that the phone call on 27 October 2011 only referred to Pensions Release/Pensions Online. LV offered to pay Mr L £500 for its acknowledged delay in responding to his subsequent complaint.
29. Mr X said he considered this offer to be insufficient, and claimed that he had been assured by LV that the pension account had been "flagged" so that no transfer to any pension arrangement would be made without firstly making further contact. LV responded that its records did not show that.
30. LV also said that its investigations in 2017 had led it to conclude that the Cancellation Request and some subsequent correspondence had been made by Mr X instead of Mr L, before Mr L had authorised Mr X to act on his behalf; this had caused data protection problems for LV in giving information to Mr X.

Adjudicator's Opinion

31. Mr L's complaint was considered by one of our Adjudicators who concluded that no further action was required by LV. The Adjudicator's findings are summarised below:-
 - LV had agreed that it made a transfer to a pension arrangement that had turned out to be a scam, and Mr L had probably lost all or most of his pension fund as a consequence, so there was no dispute that that Mr L had been severely disadvantaged as a result.
 - Mr L complained that by making a transfer to the Scheme, LV overrode the Cancellation Request. LV denied that, saying that the Cancellation Request specifically referred to Pensions Release and Pensions Online; the transfer that LV made was not to either of those firms.
 - It seemed clear that Cressar or Mr H had used Mr L's signed blank transfer request to facilitate a transfer from the Plan to the Scheme. Mr L had no prior knowledge of the Scheme. However, this problem would not have occurred if Mr L had not signed a blank transfer form and given it to Mr H, for Mr H or Cressar to misuse; Mr L should bear responsibility for doing that.
 - In December 2011 Cressar provided LV with evidence that the Scheme was registered by HMRC and had obtained contracted-out status. There seemed no reason at that time for LV to have any suspicions about the Scheme. It was not until sometime later that the Pensions Regulator published a press release headed "Warning against early release pension offers" and a factsheet titled "Pension Liberation Fraud".
 - Mr L had said that the Cancellation Request had referred to any transfer, but the Adjudicator was satisfied, having asked LV to make appropriate enquiries, that Mr L only prohibited a transfer to Pensions Release or Pensions Online, and did

not mention Cressar or Dewshill. It was entirely plausible that he was stopping a transfer to Pensions Release or Pensions Online because he was proposing to make an alternative transfer, for example to the Scheme. At that time LV had no information that Pensions Release or Pensions Online were associated in any way with Cressar or the Scheme.

- In the Adjudicator's view, therefore, LV was entitled to make the transfer to the Scheme in 2011.
 - In the circumstances, the Adjudicator did not need to make any findings about whether Mr L or Mr X had made the Cancellation Request.
 - In the Adjudicator's view, the time that LV had taken in investigating the complaint from 23 February 2017 to 7 February 2018 was too long. LV should have provided a full response much earlier. It was noted that LV had recently offered to pay Mr L compensation of £500 for the distress and inconvenience this had caused.
 - It was therefore the Adjudicator's opinion that this complaint should not be upheld, because LV was entitled to make the transfer to the Scheme. If Mr L wished to accept LV's offer of £500 for distress and inconvenience he should contact LV accordingly.
32. Mr X did not accept the Adjudicator's Opinion, and the complaint was passed to me to consider. Mr X and LV provided their further comments which do not change the outcome. I agree with the Adjudicator's Opinion, and I will therefore only respond to the key points made by Mr X for completeness.
33. Mr X said that Mr L had been pressured into signing the transfer form while he was in a vulnerable state. He was currently very unwell in hospital. Mr X reiterated that LV had been instructed not to make any transfer from the Plan without firstly discussing it with Mr L, but it had proceeded regardless; it should take some responsibility for doing that. Mr X also said that LV was aware at the time that a blank transfer form had been signed by Mr L.

Ombudsman's decision

34. With regard to Mr L's comments, LV is adamant that the telephone call it received on 27 October 2011 instructed it not to transfer to Pensions Release/Pensions Online but did not preclude other transfers. As the details of that call are disputed by Mr L, and LV have suggested that it may have been made by Mr X before he was authorised to act on behalf of Mr L, it is unfortunate that no recording of that telephone call is available.
35. In my view, however, it is more likely than not that the call referred specifically to Pensions Release/Pensions Online. Those names were mentioned in the note that

LV put on its computer system, so those names were most probably given to it in the call.

36. For business reasons LV would not have wanted to transfer out money it held unless it had to do so, so the most logical explanation for its compliance with the signed and completed transfer request is that no prohibition on any other transfer had been made at that time, and there were no grounds for suspicion at that time.
37. Having received the completed and signed transfer form in 2011, there was no need for LV to contact Mr L again before making the transfer payment. There was no documentary evidence that Mr L had not voluntarily signed the form, which discharged LV from any further liability. The fact that the date had been amended did not show that there had been any deception. There was also no evidence at that time to suggest that a scam was being carried out by Cressar, Dewshill or the Scheme.
38. I quite understand that Mr X has been doing his best to help his son, who I understand is in difficult circumstances. This is another very sad case where a fraud appears to have been committed with the result that life pension savings have been lost and I have every sympathy with the position that Mr L now finds himself in but, on the evidence provided, I do not consider that LV is at fault in making the transfer in 2011 in accordance with the form that Mr L had signed.
39. If Mr L wishes to accept LV's offer of £500 for its delay in responding to his complaint, he or Mr X on his behalf should contact LV.
40. I do not uphold Mr L's complaint.

Anthony Arter

Pensions Ombudsman
11 July 2019