

## Ombudsman's Determination

Applicant	Mr S
Scheme	Legal & General Worksave Pension Plan ( <b>the Plan</b> )
Respondent	Legal & General Assurance Society Limited ( <b>L&amp;G</b> )

## Outcome

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

## Complaint summary

2. Mr S has complained about the delay in L&G completing his transfer to his new pension provider. Mr S argues that L&G failed to take ownership of the transfer process and state its requirements to complete the transfer. As a result, Mr S wants to be financially compensated for the investment growth he says he would have earned, and a payment made in recognition of the trouble and upset he has suffered.

## Background information, including submissions from the parties

3. The sequence of events is not in dispute, so I have only set out the salient points. I acknowledge there were other exchanges of information between all the parties.
4. Mr S wanted to transfer his benefits held with L&G to the Universities Superannuation Scheme which is managed by Universities Superannuation Scheme Ltd (**USS**).
5. On 6 September 2017, USS sent L&G a signed authority form and a request for transfer details.
6. On 14 September 2017, L&G sent Mr S a transfer illustration and included the relevant transfer forms for completion (**the September Illustration**). L&G informed USS that it had sent Mr S the September Illustration. The accompanying notes of the September Illustration said that:

"If the new provider does not use Origo Options, we will require the enclosed declarations to be completed and returned to us."
7. L&G also said:

"Please do not separate the attached declarations. Please send these forms back together, once all have been completed.

The perforations are for office use only and should not be separated. Separation could cause the payment to be delayed."

8. L&G required both the receiving scheme and the member to complete a declaration.
9. On 3 November 2017, USS wrote to Mr S requesting the documents L&G had sent him in September 2017.
10. On 28 November 2017, USS emailed Mr S chasing the documents. Mr S posted these to USS on 4 December 2017.
11. On 6 December 2017, USS sent Mr S a transfer-in option form (**the Option Form**) for completion. This form was based on the transfer value listed in the September Illustration. The Option Form included USS' member declaration. Mr S returned this to USS in early January 2018.
12. Upon receipt of this, USS sent L&G the completed Option Form and signed member declaration. Neither Mr S nor USS had returned any of L&G's transfer forms at this time.
13. On 16 January 2018, L&G resent USS its transfer forms for completion.
14. On 31 January and 21 February 2018, USS wrote to L&G chasing the transfer payment.
15. On 27 February 2018, L&G sent USS its transfer forms for completion. L&G said that it required all forms to be completed before it could process the transfer.
16. On 14 March 2018, USS wrote to L&G chasing the transfer payment.
17. On 4 April 2018, L&G resent the transfer forms via email to USS.
18. On the same day, USS sent Mr S a letter which confirmed that L&G had yet to receive its completed transfer forms. As a result, L&G had issued updated transfer forms for completion. USS now required the Option Form to be completed again and for Mr S to complete L&G's member declaration form.
19. On 10 May 2018, Mr S emailed USS asking whether the transfer had been processed as he had not received any confirmation.
20. In response, USS said that it had sent Mr S an updated Option Form for completion in April 2018 but had not received a response to this. It required the Option Form to be completed. USS advised Mr S to contact L&G to determine what its outstanding requirements were.
21. On 16 May 2018, Mr S emailed L&G stating that he began the transfer process in December 2017 and questioned why this had not been actioned yet.

22. On 29 May 2018, L&G sent Mr S all the necessary transfer forms for completion.
23. On 6 June 2018, L&G received the completed receiving scheme declaration from USS. With this, USS had sent the unsigned member declaration form.
24. On 12 June 2018, L&G sent Mr S a letter requesting that the member declaration be completed. It included a prepaid envelope.
25. On 27 June 2018, USS chased L&G for the transfer payment.
26. On 7 July 2018, Mr S emailed L&G and said that he had no intention of completing another member declaration form. He had previously completed one in December 2017 and June 2018. He also said that he wanted to be adequately compensated for L&G's failure to act.
27. On 9 July 2018, L&G confirmed to Mr S that it had not received the completed member declaration. It reiterated that this needed to be completed before progressing with the transfer.
28. On 11 July 2018, USS chased L&G for the transfer payment.
29. On 24 July 2018, L&G chased Mr S for a copy of the member declaration form.
30. On 30 July 2018, Mr S emailed L&G to state all requirements had been previously sent. Mr S requested an appropriate level of compensation to be paid for the continuous delays.
31. On 1 August 2018, USS sent L&G the completed member declaration form.
32. On 21 August 2018, Mr S emailed L&G and said that he wanted this matter escalated to a complaint.
33. On 23 August 2018, USS telephoned L&G. L&G said the member declaration was still outstanding, as the previous one had expired. L&G had sent the member a new form in June and July 2018. As USS had sent at least five payment reminders, it closed the case.
34. In September 2018, Mr S emailed L&G and reiterated that he wanted this to be raised as a complaint.
35. In October 2018, Mr S emailed L&G regarding the complaint he previously raised. He said that his transfer had not completed 12 months on from his initial enquiry. Mr S raised concerns that he had been financially disadvantaged due to the delay and wanted to be compensated for the inconvenience caused.
36. As L&G had not responded to Mr S, he contacted The Pensions Ombudsman (**TPO**) in the hope of resolving his transfer and complaint.
37. On 30 November 2018, L&G responded to the complaint and said that:-

- It found no evidence that it received any completed transfer forms prior to June 2018, and even this did not include the completed member declaration.
  - It could not proceed with the transfer until the member declaration had been received.
  - It had asked both Mr S and USS for the completed forms on numerous occasions.
  - While it could not have processed the transfer any quicker as it had not received the necessary paperwork, it agreed that its service levels could have been better.
  - It could have outlined its requirement more clearly and could have been more prompt in its responses.
  - In light of the poor service received, it offered Mr S £100 for the trouble and upset caused.
38. On 12 December 2018, TPO sent L&G the completed member declaration on behalf of Mr S.
39. On 17 December 2018, L&G wrote to Mr S confirming that the transfer had completed and £2,982.10 had been sent to USS. L&G also informed USS of this.
40. On 2 January 2019, USS wrote to Mr S to confirm the transfer had completed.
41. On 24 May 2019, following further comments raised by Mr S in relation to the transfer process, L&G responded and said that:-
- It had a duty to Mr S to establish certain facts before completing a transfer. It needed to know that the receiving scheme was a recognised pension scheme, that there was a statutory right to transfer, and that the customer had provided a mandate to move the funds.
  - The declarations included in its transfer forms satisfied the above requirements.
  - The transfer process did not begin in September 2017, as USS only sent a proposal for a transfer. So, it treated it as an enquiry.
  - Between January and June 2018, each time USS sent a request for transfer payment, an updated transfer pack was issued outlining its requirements. Throughout this period, its requirements were not met.
  - It received a transfer pack on 6 June 2018, dated 4 April 2018, but the member declaration had not been completed.
  - The transfer packs were industry standard and simply outlined its requirements and provided both the member and receiving scheme with all the forms.

- It received partially completed transfer forms in June 2018. The value of Mr S' plan was £39.25 higher than the amount transferred. In light of the poor customer service, it agreed to cover this.
- It agreed it could have dealt with the missing member declaration form better, and Mr S' initial complaint was not handled correctly. As a result, it offered an award of £300, which included the financial loss of £39.25.

### **Summary of Mr S' position**

42. Mr S says:-

- He wants the financial loss to be taken from January 2018 and to include the potential investment loss.
- L&G should have been clearer in what was missing instead of sending generic transfer forms.
- He agrees the transfer process did not start in September 2017, however, from this date L&G should have been more proactive in completing the transfer as it was aware of his intentions.

### **Adjudicator's Opinion**

43. Mr S' complaint was considered by one of our Adjudicators who concluded that no further action was required by L&G. The Adjudicator's findings are summarised below:-

- Legally, L&G had six months to complete Mr S' transfer to USS (see appendix A). Before the six-month timeframe began, L&G had a legal right to ensure any prescribed requirements had been met (see appendix B).
- L&G's requirements for completing a transfer were first listed in the September Illustration. So, it was evident that both Mr S and USS knew the conditions that needed to be met before the transfer could complete.
- Mr S argued that the transfer should have completed in January 2018, and this was the date he wanted his financial loss to be calculated from. The Adjudicator disagreed, as the requirements for completing the transfer were clear. As these had not been met, the transfer could not have completed by then.
- Upon receipt of the completed receiving scheme declaration from USS, L&G chased Mr S for the completed member declaration. L&G included pre-paid envelopes with the letters it sent Mr S. L&G did not receive the completed document until TPO's involvement. This was on 12 December 2018, and the transfer completed on 17 December 2018.

- L&G had a legal right to list its transfer requirements, and these had not been met. Without the declarations, the transfer could not complete. So, in the Adjudicator's opinion, L&G did not delay the transfer.
- Mr S argued that he had previously sent L&G a completed member declaration form in December 2017 and in June 2018. If L&G was in receipt of a completed member declaration, the Adjudicator saw no reason why it would continue to chase Mr S and USS for this. Nonetheless, there was no reason why Mr S could not have resent it in the prepaid envelope that L&G sent him in June 2018.
- Mr S claimed that L&G should have taken ownership of the case and listed its requirements more clearly. In the September Illustration, L&G did not state that it had any responsibility in chasing or taking ownership of the case. As the transfer was requested by Mr S, it was his responsibility to ensure that L&G had received the information it had requested.
- However, between August and November 2018, L&G failed to respond to a number of emails from Mr S in relation to his complaint. As a result, L&G felt that it had not provided Mr S with an adequate level of service. The Adjudicator agreed, as L&G had taken 14 weeks to respond to Mr S' complaint and L&G should have responded to the complaint within eight weeks. As L&G took six weeks longer to respond, in the Adjudicator's opinion delay amounted to maladministration.
- As a result of the poor service Mr S had received, L&G calculated the transfer value from the date USS sent the completed receiving scheme declaration and compared this to the amount that was transferred to USS. L&G determined that the transfer value in June 2018 was £39.25 higher than the amount transferred. So, L&G agreed to pay this amount directly to Mr S.
- In addition to covering the financial loss that it had calculated, L&G offered a further £260.75 to Mr S, to take the total award offered to £300. This was in relation to the mishandling of Mr S' complaint. As this was the only error, and the handling of the complaint did not cause a long-term effect, the Adjudicator concluded that the award was sufficient in the circumstances.

44. 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 additional points raised by Mr S.

45. Mr S said:-

- L&G did not make the transfer completion requirements clear from the outset. So, it was easy for him to assume that completing USS member declaration form was sufficient.
- Based on the balance of probabilities, the member declarations were misplaced by L&G.

- The distress and inconvenience award was too low.

46. Mr S also questioned how the Adjudicator could make a finding that differed from L&G. L&G stated that it should have taken better ownership of the case, however, the Adjudicator said there was no requirement for L&G to do so.

### **Ombudsman's decision**

47. The key issue is whether L&G clearly demonstrated its requirements at the start of the transfer process. When L&G sent Mr S the September Illustration, it included both the receiving scheme and member declarations. L&G said that both forms needed to be completed. There is no ambiguity and until its requirements had been met, L&G could not be responsible for any delay.
48. So, I disagree with Mr S' comment that it was easy to assume that instead of completing L&G's member declaration he could complete the receiving scheme's declaration. Nonetheless, to avoid any doubt or delay Mr S could have simply asked L&G if it needed to be completed.
49. Mr S is adamant that he previously completed and returned L&G's member declaration form. He says, on the balance of probabilities, L&G receive the form and simply misplaced it. While I appreciate documents can go missing, I find it unlikely that the same document would have been misplaced by L&G in December 2017 and again in June 2018. In any event, I can see no reason why Mr S could not have resent this document when L&G chased for it. As Mr S wished to transfer, the onus was on Mr S to return the form and check that it had been received.
50. L&G accepts that it could have taken better ownership of the case. It has offered Mr S £300, comprising £39.25 for the nominal transfer difference and £260.75 for distress and inconvenience caused. I consider that to be sufficient in the circumstances. Mr S should now contact L&G if he wants to accept the sum.
51. I do not uphold Mr S' complaint.

**Anthony Arter**

Pensions Ombudsman  
30 May 2022

## **Appendix A**

### **The Occupational Pension Schemes (Transfer Values) Regulations 1996 (SI 1996/1847) Regulation 10**

#### **Part 3 Statements of Entitlement and Calculations of Transfer Values**

- “(1) Subject to paragraph (2), if the trustees of a scheme, having received an application under section 95 of the 1993 Act, fail to do what is needed to carry out what the member requires within six months of the appropriate date the member’s cash equivalent, as calculated in accordance with regulations 7 to 9, shall be increased by the amount, if any, by which that cash equivalent falls short of what it would have been if the appropriate date had been the date on which the trustees carry out what the member requires.
- (2) If the trustees of a scheme, having received an application under section 95 of the 1993 Act, fail without reasonable excuse to do what is needed to carry out what the member requires within six months of the appropriate date the member’s cash equivalent, as calculated in accordance with regulations 7 to 9, shall be increased by-
- (a) interest on that cash equivalent calculated on a daily basis over the period from the appropriate date to the date on which the trustees carry out what the member requires, at an annual rate of one per cent. above base rate; or, if it is greater,
  - (b) the amount, if any, by which that cash equivalent falls short of what it would have been if the appropriate date had been the date on which the trustees carry out what the member requires.”



## **Appendix B**

### **Pension Schemes Act 1993**

#### Chapter IV Transfer Values

##### 95 - Ways of taking right to cash equivalent

- “(1) A member of an occupational pension scheme or a personal pension scheme who acquires a right to a cash equivalent under this Chapter may only take it by making an application in writing to the trustees or managers of the scheme requiring them to use the cash equivalent to which he has acquired a right in whichever of the ways specified in subsection (2) or, as the case may be, subsection (3) he chooses.
- (2) In the case of a member of an occupational pension scheme, the ways referred to in subsection (1) are -
- (a) for acquiring transfer credits allowed under the rules of another occupational pension scheme -
    - (i) the trustees or managers of which are able and willing to accept payment in respect of the member’s accrued rights, and
    - (ii) which satisfies prescribed requirements;
  - (b) for acquiring rights allowed under the rules of a personal pension scheme—
    - (i) the trustees or managers of which are able and willing to accept payment in respect of the member’s accrued rights, and
    - (ii) which satisfies prescribed requirements;
  - (c) for purchasing from one or more insurance companies such as are mentioned in section 19(4)(a), chosen by the member and willing to accept payment on account of the member from the trustees or managers, one or more annuities which satisfy prescribed requirements;
  - (d) for subscribing to other pension arrangements which satisfy prescribed requirements.”