

Ombudsman's Determination

Applicant	Mr S
Scheme	Legal & General (UTM) Stakeholder Pension Scheme (the Scheme)
Respondent	Legal & General Assurance Society Limited (L&G)

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 that L&G transferred the administration of his pension against his wishes, causing him financial detriment, as well as distress and inconvenience.

Background information, including submissions from the parties

3. The Financial Conduct Authority (**FCA**) is the regulator that oversees financial markets in the UK, including pension scheme administrators. Its stated aim is to ensure that members are treated fairly and effectively by setting standards which administrators and pension providers are required to maintain.
4. The Government has defined a pension 'scam' as:-

"The marketing of products and arrangements and successful or unsuccessful attempts by a party (the scammer) to:

 - Release funds from an HMRC-registered pension scheme, often resulting in a tax charge that is not anticipated by the member.
 - Persuade individuals over the normal minimum pension age to flexibly access their pension savings in order to invest in inappropriate investments.
 - Persuade individuals to transfer their pension savings in order to invest in inappropriate investments.

Where the scammer has misled the individual about the nature of, or risks attached to, the purported investment(s), or their appropriateness for that individual investor.”

5. On 28 August 2015, L&G wrote to Mr S and said that administration of the Scheme would be transferred to Jessop Fund Managers Limited (**JFM**) by the end of November 2015, (**the Scheme transfer**). L&G also explained that Mr S did not need to take any action since his pension policy would automatically transfer to JFM during this process.
6. In the letter, under the heading ‘Why are we transferring the Scheme?’, L&G confirmed that the Government had implemented pension reforms from 6 April 2015, which would allow members to claim their retirement benefits more flexibly than previously. However, L&G was not able to facilitate all the flexibility that was permitted under the new Government legislation.
7. Under a section of the letter headed ‘What does this mean for you?’, L&G said:-

“By moving to JFM you will have more options to choose from when you are able to access your pension from age 55. You will continue to remain invested in the same funds and the charges on your [policy] will remain the same.”
8. Regarding the terms offered by JFM following the Scheme transfer, the letter stated that JFM had agreed to offer broadly the same terms that had been applicable previously.
9. L&G said one exception to this was that it had previously invested the tax relief on a member’s contributions immediately upon receiving them and then reclaimed the tax relief from HMRC.
10. L&G explained that JFM would claim the tax relief on a member’s contributions from HMRC before the funds could be invested in a member’s policy, and that this could take up to 11 weeks.
11. On 7 September 2015, Mr S telephoned L&G and said that he did not wish to transfer administration of his policy to JFM.
12. On 5 October 2015, Mr S wrote to L&G and said that he did not want his policy transferred to JFM and that he would provide alternative transfer instructions.
13. In November 2015, Mr S received a letter from JFM confirming that his policy had been transferred as part of the Scheme transfer.
14. On 25 November 2015, Mr S wrote to L&G and complained that his policy had been transferred to JFM against his wishes.
15. On 7 December 2015, L&G wrote to Mr S and said:-
 - L&G made a business decision to proceed with the Scheme transfer and provide members with an increased range of retirement options from age 55. The letter, of

28 August 2015, confirmed that the Scheme transfer would be completed by “the end of November 2015”, and this is what happened. L&G had not said that the Scheme transfer would be completed at the end of November 2015.

- L&G had been considering its options since 2014 when the Government initially announced the pension reforms that were implemented in April 2015. It was not until July 2015 that L&G reached the conclusion that JFM was a suitable administrator for Mr S’ policy and personal information.
- JFM was able to provide greater flexibility when providing Mr S’ retirement options compared to L&G, following the Government’s pension reforms. Although JFM was the new administrator of the Scheme, the funds that Mr S invested in, and the related charges were unchanged.
- To ensure that all requirements had been met in processing the Scheme transfer, L&G sought and obtained the approval of its regulator, the FCA. There was no obligation to also seek the approval of members before the process could be completed nor was there anything unreasonable in L&G’s intentions or actions.
- There was no minimum timescale for completing the Scheme transfer, but sufficient time was provided for Mr S to decide how he would like to proceed. Even though the Scheme transfer has been completed, Mr S could still choose to transfer out of the Scheme if he wished to do so.

Mr S’ position

16. L&G’s letter of 28 August 2015 gave him until the end of November 2015 to decide how to proceed. Despite telephoning L&G on 7 September 2015, then writing to L&G on 5 October 2015, to say that he did not wish to transfer to JFM and would provide alternative instructions, he subsequently received confirmation from JFM that the transfer had been completed. He had previously made enquiries about transferring from L&G to Liverpool Victoria so that he could avoid involvement in the Scheme transfer.
17. JFM could delay investment of the tax relief on his employee contributions for up to 11 weeks following the Scheme transfer. This would allow JFM to retain a considerable sum of members’ contributions for an extended period, without the funds being invested. So, the Scheme transfer amounted to a scam for the benefit of JFM.

Adjudicator’s Opinion

18. 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:-
 - L&G’s letter of 28 August 2015 confirmed that the Scheme transfer would be completed by the end of November 2015. So, the Adjudicator did not agree that

L&G stated that Mr S could take until the end of November 2015 to decide how to proceed with his policy or select an alternative transfer than to JFM. In the Adjudicator's opinion, it was for Mr S to contact L&G regarding the letter of 28 August 2015, if he was unclear on this point.

- L&G cannot reasonably be held responsible for Mr S' failure to do so, resulting in his policy being correctly transferred to JFM in November 2015. L&G's correspondence was not ambiguous or misleading.
 - The terms applicable after the Scheme transfer, including the delay of up to 11 weeks for JFM to invest the tax relief on his contributions, were known to Mr S before it was processed. L&G's letter of 28 August 2015 confirmed that JFM would claim the tax relief from HMRC before investing the funds. So, Mr S could have transferred out of the Scheme before the Scheme transfer was completed if he wished to avoid the terms applied by JFM.
 - In the Adjudicator's opinion L&G provided sufficient time in which Mr S could have made alternative transfer arrangements, since he would likely have received the letter of 28 August 2015 by the beginning of September 2015, and the Scheme transfer was scheduled for completion by the end of November 2015.
 - JFM's process of claiming the tax relief on member's contributions from HMRC would undoubtedly also have meant that there was a waiting time for HMRC to respond. There is no evidence that JFM would benefit from the delay of up to 11 weeks in allocating the funds to members pensions.
 - Before proceeding with the Scheme transfer, L&G sought and obtained the approval of the FCA. In the Adjudicator's view this approval was appropriate and relevant, given the FCA's status as L&G's regulator and its stated aim of seeking the fair treatment of pension scheme members by administrators.
 - The Adjudicator felt it was fair to conclude that the Scheme transfer was reasonable. Mr S had provided no evidence in support of his assertion that it was a "scam" for "the benefit of JFM", or that there was any maladministration by L&G that caused him financial detriment. Further, Mr S still has the option to transfer out of JFM if he wishes to do so.
19. L&G accepted the Adjudicator's Opinion, but Mr S did not, 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.

Mr S' additional comments

20. In the letter of 28 August 2015 L&G unreasonably assumed the role of the policyholders by confirming that the Scheme transfer would be completed by the end of November 2015. The reasons that L&G set out for the Scheme transfer in the letters of 28 August 2015, and 7 December 2015, do not reflect the standards set by

the FCA. A reasonable pension scheme administrator would not have transferred the administration of his policy. So, it remains unclear whether the FCA was fully aware of L&G's intended actions regarding the Scheme transfer before it was implemented.

21. In November 2018, he received a letter from JFM confirming that the administration of his policy had changed in accordance with the Scheme transfer. So, he telephoned an office previously occupied by L&G in Brentford to try and complain but it had been closed without notice. This made it difficult to contact L&G regarding his instructions that his policy should not be included in the Scheme transfer before it was completed.
22. L&G's conduct in this regard did not reflect the standards set by the FCA in terms of the required openness and transparency in dealing with a member's investments under the Scheme. This is also evidence that L&G made decisions for its own interests rather than those of members, including that JFM could delay investment of the tax relief on contributions for up to 11 weeks.

Ombudsman's decision

23. Mr S has complained that L&G transferred the administration of his pension against his wishes, causing him financial detriment, as well as distress and inconvenience.
24. Mr S also contends that in its letter of 28 August 2015 L&G unreasonably assumed the role of the Scheme's policyholders in confirming that the Scheme transfer would be completed by the end of November 2015 without any consultation.
25. I note that the letter of 28 August 2015 explained that the Government had implemented pension reforms effective from 6 April 2015, which would allow members to claim their retirement benefits more flexibly than had previously been the case. L&G said it was unable to facilitate all the flexibilities that were permitted under the new Government legislation. So, a decision had been made to proceed with the Scheme transfer to JFM, which would provide this flexibility. I find that it is not unusual for pension scheme administrators such as L&G to reserve the right to make such decisions on behalf of and affecting all policyholders when it is considered that the decision will benefit the majority of the policyholders.
26. Mr S has also complained that the reasons L&G set out in respect of the Scheme transfer, in the letters of 28 August 2015, and 7 December 2015, do not reflect the standards set by the FCA. He says that a reasonable administrator would not have transferred the administration of his policy, so, it is unclear whether the FCA was fully aware of L&G's intended actions regarding the Scheme transfer before it was implemented.
27. I find that the letter of 28 August 2015 was detailed, informative and clear. Having received this letter Mr S would have been aware that administration of his policy would be transferred to JFM if he did not transfer out of the Scheme by the end of November 2015. However, Mr S could have contacted L&G if he required clarification on this point. L&G cannot be held responsible for Mr S' failure to do so, resulting in

the administration of his policy being correctly moved to JFM as part of the Scheme transfer.

28. I find that L&G acted in accordance with the letter of 28 August 2015, and that the letter of 7 December 2015 was consistent with its stated approach. Further, I note that to ensure all requirements had been met in processing the Scheme transfer, L&G sought and obtained the approval of the FCA. There is no evidence that the FCA was unaware of L&G's intentions, or was misled in any way. I also note that Mr S still has the right to transfer out if he so wishes.
29. Mr S is also unhappy that he found it difficult to contact L&G to complain after he received a letter from JFM in November 2018, confirming that his policy was included in the Scheme transfer. Mr S says that L&G closed one of its offices without notice and that L&G's conduct did not reflect the standards set by the FCA in terms of openness and transparency in dealing with a member's investments under the Scheme.
30. I find that there was no requirement for L&G to inform Mr S that any of its offices would be closed following the Scheme transfer. It was for Mr S to transfer out of the Scheme by the end of November 2015 if he did not wish his policy to be included in the Scheme transfer. L&G cannot be held responsible for Mr S' failure to act. I do not agree with Mr S' assertion that L&G's conduct did not reflect the standards set by the FCA in terms of requiring openness and transparency in dealing with a policyholder's investments, that L&G made decisions for its own interests, or that there was any maladministration by L&G.
31. I do not uphold Mr S' complaint.

Anthony Arter

Pensions Ombudsman
2 November 2022