

The complaint

Mr H complains that the transfer value of his pension with Legal and General Assurance Society Limited fell significantly inside a short period of time. He also complains that Legal and General Assurance Society Limited failed to provide timely information to him about his pension.

What happened

Mr H had a deferred annuity pension contract with L&G. He says he'd forgotten all about this pension until he received a letter from L&G in November 2021.

Mr H says L&G's letter stated that one of the options available to him was to transfer his pension to another provider. The transfer value at that time was just over £20,000. He wanted to pursue this option. He contacted an adviser (V) but Mr H says that due to delays and administrative errors by both L&G and V the deadline set out in L&G's letter was missed. At the time he says he decided to leave matters.

He contacted L&G again in March 2022 and asked it to provide him with a new transfer value. He says he was shocked when the value he received had decreased to just over £17,000. He complained to L&G.

L&G sent him its final response letter dated 22 April 2022 '(the first FRL)'. It said Mr H hadn't returned the necessary paperwork on or before the deadline provided in its letter dated November 2021. It had recalculated the new transfer value in March 2022. The value was calculated by its actuaries and was based on multiple factors. L&G said it hadn't done anything wrong. The first FRL stated that if Mr H wasn't happy with the decision he had the right to refer his complaint to our Service but he had to do that within six months of the date of the letter.

Mr H didn't refer his complaint to our service at that time.

Mr H contacted L&G again in June 2023. L&G provided a new transfer value at that time.

Mr H says he was shocked when the transfer value had fallen again to around £12,500. He complained again to L&G. By way of summary he said L&G:

- should have contacted him prior to November 2021 to tell him about his options under the policy. If it had done that he could have made decisions about how to proceed much earlier;
- should have alerted him to the fact that the transfer value was falling;
- had not told him how the transfer value was calculated; and
- had not asked him questions about his health which he said would have been an important factor to take into account when calculating the transfer value.

He also said that the fact he'd missed the deadline imposed by L&G in November 2021 was not as a result of any fault on his part. He thought L&G should honour the transfer value it had provided at that time and compensate him for all the years he'd missed out on as a result of L&G's failure to contact him sooner.

L&G investigated his complaint. It issued its final response letter on 21 June 2023 ('the second FRL'). It said Mr H's policy was held on a defined benefit basis. This meant it had no "fund" or "pot" value and had no investments underpinning it. L&G said it had provided estimates of the annual pension Mr H would be entitled to on his 65th birthday and any change in the transfer value had no bearing on the pension due to him.

L&G said it was possible to transfer his defined benefit entitlement to another pension but because the policy had no fund value its actuaries calculated a cash equivalent transfer value ('CETV') instead. The CETV was based on various assumptions which were constantly changing. L&G said it had provided a three month guarantee for the transfer values it had provided and had warned Mr H that if he didn't return the necessary paperwork by the end of the guarantee period a new transfer value would have to be calculated.

L&G said it hadn't done anything wrong. Mr H referred his complaint to our service shortly after receiving the second FRL.

Our investigator looked into his complaint. She firstly considered whether L&G should've contacted Mr H prior to 2021.

She said that under our Rules we could only consider this part of Mr H's complaint if he'd brought his complaint within six years of the date of the event complained about or within three years of the date when he'd first become aware, or ought reasonably to have become aware, he'd cause for complaint. He hadn't brought his complaint within six years of the date when the policy commenced which was 1992. Although Mr H said he'd only become aware of the policy in 2021, it was likely he'd received a copy of the policy in 2000. She thought this ought reasonably to have made him aware of the policy and his cause for complaint. He hadn't brought his complaint within three years of that date. So she said we couldn't consider this part of his complaint.

Our investigator then considered the complaints Mr H had raised about the reductions in the transfer value. She said L&G had explained that the transfer value was calculated by its actuaries. Our service was not a checking service and we don't employ actuaries. But she noted that the policy was not invested. The transfer value was based on various assumptions. The value provided was guaranteed for three months. When the assumptions changed the value changed. She didn't think L&G was responsible for changes in the economic environment which had impacted on the actuarial assumptions. In these circumstances she didn't think L&G needed to do anything further to resolve the complaint.

Because Mr H didn't agree, the complaint was passed to me to decide.

I issued a provisional decision in which I said:

What I've provisionally decided – and why

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Mr H has a personal pension policy held with L&G. This policy was set up after his benefits were transferred away from a previous employer's occupational pension scheme ("OPS") as a result of a bulk purchase agreement with L&G. The policy commenced in 1992 and individual "buyout" policies were issued to members in 2000. The benefits under the buyout policy mirrored those which the OPS would otherwise have provided at retirement. Under the terms of the policy Mr H was entitled to certain defined benefits when he retired.

Mr H has raised a number of complaints, each of which I'll consider further below. First, I'll comment on whether our service has power to investigate all of the complaints Mr H has raised.

Has our service power to investigate all of Mr H's complaints?

L&G has now given its consent to our service investigating all the matters Mr H has complained about which were dealt with in its first and second FRLs (dated 22 April 2022 and 21 June 2023 respectively). That means I don't need to consider further whether the time limits for bringing a complaint to our Service (as set out in our Rules) would otherwise have been met.

The first FRL was issued on 22 April 2022. That letter was sent in response to Mr H's complaint that L&G had refused to honour the transfer value quoted on 10 November 2021 because the required documents had not been returned to it prior to the end of the guarantee period. L&G said it had not done anything wrong.

The second FRL was issued on 21 June 2023. That letter was in response to various other complaints Mr H had raised. By way of summary, he said L&G:

- should have contacted him prior to November 2021 to tell him about his options under the policy. If it had done that he said he could have made decisions about how to proceed much earlier;
- should have alerted him to the fact that the transfer value was falling;
- had not told him how the transfer value was calculated; and
- had not asked him questions about his health which he said would have been an important factor to take into account when calculating the transfer value.

In the second FRL L&G also said it hadn't done anything wrong.

So, I'll now consider the merits of each of the matters Mr H has complained about.

L&G refused to honour the transfer value quoted on 10 November 2021

I've looked at the transfer value letter sent to Mr H on 10 November 2021 and also considered the sequence of events up to the date when L&G received his completed discharge form on 15 March 2022.

The transfer value letter included the following statement:

"If you wish to proceed with a transfer, please fully complete and return the enclosed discharge form to me no later than 10/02/2022, the end of the guaranteed period.

After this date the transfer value will be subject to recalculation and could be lower or higher than the current amount, depending upon the financial assumptions in force at that time..."

The full quotation was included with the letter and under the heading "Transfer value details" the following information appeared:

"Total Transfer value £20,169.32 Guaranteed until 10/02/2022."

Below this was a note which stated:

“This transfer value is guaranteed until 10/02/2022. Legal & General will not be able to issue another transfer value until after this date. Please be aware that volatility in the financial markets may have a significant impact on any value offered in the future.

Any new transfer value provided after the guarantee period has ended may be higher or lower than that shown within this quotation.”

Having read the information on the transfer value letter, I’m satisfied that L&G made clear to Mr H that he needed to return the completed discharge form no later than 10 February 2022 if he wanted to receive the guaranteed value. The date by which the discharge form had to be returned was repeated on at least three occasions in the letter sent to him. If he didn’t return the discharge form by the date stated another transfer value would be calculated – and it could be higher or lower. He was also warned that volatility in financial markets could have a “significant” impact on any future value.

L&G received a request to transfer Mr H’s pension to another provider on 10 January 2022.

It appears V submitted that request via the Origo Transfer Service (OTS). OTS is described as an electronic pipework that allows businesses to transfer customer funds from one platform to another. However, L&G was unable to accept transfer requests for Mr H’s policy through OTS. The transfer value letter had set out that to proceed with a transfer Mr H needed to fully complete and return the discharge form to the address stated in the letter. A discharge form was also enclosed with the letter.

When L&G received the OTS request, it contacted V by email and explained its requirements. It issued V with the full quotation pack on 19 January 2022 after receiving a letter of authority from Mr H.

Despite the issues with the OTS application, I’m satisfied that L&G acted fairly and reasonably when it provided V with all of the information it needed to progress Mr H’s application. It also did that within a reasonable period of time. There was still just over three weeks remaining before the guaranteed transfer value expired. I think that was sufficient time for Mr H and his advisers to have acted to secure the guaranteed transfer value. I’ve noted that the completed discharge form wasn’t received by L&G until 15 March 2022 – which was over a month after the guaranteed value had expired.

Having considered everything here, I’m satisfied that L&G made its requirements clear to both Mr H and V. L&G’s transfer value letter had explained that the guaranteed transfer value would expire on 10 February 2022 and warned Mr H that volatility on the financial markets could have a significant impact on any future transfer value. Mr H did not return the discharge forms by the expiry date. In these circumstances I think L&G acted fairly and reasonably when it said it wouldn’t honour the transfer value stated in its letter dated 10 November 2021.

Should L&G have contacted Mr H prior to November 2021 to tell him about his options under the policy?

It’s important at the outset to explain that the benefits payable under the buyout policy which Mr H held was not reliant upon the performance of investments held by L&G. Each of the transfer value quotations sent to Mr H explained this as follows:

“Please be aware...

(i) This is a deferred annuity contract...

(iii)The benefits were secured by the payment of a single premium by the former Trustees [of the OPS] when the arrangement was taken over by Legal and General...”

This meant that L&G was required to pay Mr H the pension amount he would have been entitled to be paid under the terms of his OPS. The pension was payable when he reached age 65 (his normal retirement date under the OPS). As this was a deferred annuity policy, no further contributions could be made to the policy.

Mr H told us he'd forgotten all about this pension policy. He thinks L&G should have kept him informed about the pension throughout the period after 2000. Although I can understand why Mr H may have forgotten about this policy, I'm not persuaded, on balance, L&G did anything wrong when it didn't contact him prior to 2021. I'll explain why.

I've considered whether L&G had any ongoing obligation to provide annual statements to Mr H in the period after 2000 when it issued the policy to him. I've noted that the buyout policy provided a defined benefit and as mentioned above no further contributions could be made to it. That meant there were no changes to the benefits payable throughout this period. So there was no regulatory obligation to provide annual statements – as would have been the case if the policy had permitted ongoing contributions.

I've noted that L&G did write to Mr H approximately 5 years before he reached the normal retirement date set out in the policy. I think that was fair and reasonable. If Mr H had wanted to take early retirement it would've been up to him to have contacted L&G to make enquiries about that. But, given that this was a deferred annuity contract, I don't think L&G had any regulatory obligation to contact him when he reached age 55 or prior to November 2021.

Having considered everything, I'm satisfied on balance, that L&G didn't do anything wrong when it didn't contact Mr H in the period between 2000 (when it issued the policy to him) and November 2021.

Should L&G have alerted Mr H to the fact that the transfer value was falling?

Each of the quotation letters provided a guaranteed CETV and a date when the guarantee would expire. The letters also stated as follows:

“(on page 1) ...After this date [the end of the guarantee] the transfer value will be subject to recalculation and could be lower or higher than the current amount, depending upon the financial assumptions in force at that time...”

(on page 4 immediately after stating the transfer value and the guarantee expiry date).. This transfer value is guaranteed until {expiry date}. Please be aware that volatility in the financial markets may have a significant impact on any value offered in the future. Any new transfer value provided after the guarantee period has ended may be higher or lower than that shown within this quotation.”

So, I think L&G made clear in each of the quotation letters that the quotation was guaranteed for only a three month period and would be subject to recalculation after that date. It also made clear that volatility in financial markets could have a significant impact on the value - and the value could go up or down in the future.*

**(my underlining added for emphasis)*

Mr H says that if L&G had been honest with him it would have warned him, in November 2021, that the value was likely to decrease over the next few years. I've thought about what Mr H has said. But having done so I'm not persuaded it's fair and reasonable to have expected L&G to have given him the specific warning he's described.

L&G would not have been able to control financial markets – nor could it reasonably be expected to provide financial forecasts about whether transfer values might go up or down in the future. Having read the information in the quotation letters, I'm persuaded, on balance, that L&G acted fairly and reasonably when it explained that volatility in financial markets could have a significant impact on transfer values and the transfer value was only guaranteed until the date set out in the letter.

Should L&G have given Mr H more information about how the transfer value was calculated?

Mr H queried with L&G, after it issued its second FRL why his policy had lost 38% of its value in 19 months. He said L&G had failed to answer this question and had indicated it was some sort of "trade secret."

L&G has explained to Mr H that because there are no specific investments underpinning his policy, the transfer value has to be calculated by its actuaries using various assumptions that are subject to change. It said that under his policy he was entitled to a defined pension income at retirement. That had not changed despite changes in the CETV.

The CETV was broadly equivalent to the estimated cost of providing Mr H with his defined pension. The actuarial assumptions underpinning the CETV were subject to constant change based on a range of factors. That was why the CETV was also subject to constant change.

L&G said the type of factors its actuaries took into account when determining the assumptions used to make the calculation included matters such as future inflation, future interest rates and mortality rates. Some of these factors would be influenced by changes in gilt and discount rates. I'll comment further below about whether these factors should also have taken into account Mr H's personal medical circumstances.

As our investigator said, our service does not employ actuaries and we do not offer a checking service. L&G has described the types of factors the actuaries took into account and why those factors were subject to constant change. Having considered what it's said here, I think L&G has provided a reasonable explanation about how the transfer value was calculated and the assumptions used. When reaching this view I've also taken into account the fact that financial markets had been volatile during the period under consideration and it is the case that transfer values generally fell significantly during this period.

Should L&G have asked Mr H questions about his health and taken his responses into account when calculating the transfer value?

As explained above, the buyout policy secured the defined benefits Mr H would have been entitled to under the terms of his OPS. The defined benefits he was entitled to had not changed.

The CETV was a value determined using actuarial principles, based on certain assumptions. It represented the expected cost of providing his benefits had he not

decided to transfer to another provider. However, the actuarial assumptions used in the calculation were made with reference to all of the relevant policyholders – and not just Mr H. The reason for that was because L&G paid a single premium when it took over the liabilities of the OPS. Once the buyout policies were put in place transfer values, based on the health status of each individual policyholder, would not apply. This would have been no different to the position that applied before the buyout policy was put in place – where the OPS would've used assumptions to calculate the CETV with reference to all the members of the OPS. So, I'm satisfied L&G didn't do anything wrong when it didn't ask Mr H to provide personal information about his health status.

Having considered everything here, I'm satisfied on the basis of what I've seen so far that L&G has acted fairly and reasonably. So, my provisional decision is that I don't intend to require L&G to do anything more to resolve this complaint.

My provisional decision

For the reasons given above my provisional decision is that I do not intend to uphold this complaint about Legal and General Assurance Society Limited.

L&G responded to my provisional decision. It said it had nothing further to add.

Mr H also responded to my provisional decision. He provided further correspondence he'd sent to L&G, subsequent to the date of my provisional decision. In that correspondence Mr H said, by way of summary:

- the provisional decision lacked credibility because there'd been no attempt to see records of attempted communication between V and L&G;
- L&G would've "known full well" that the value was going to "tumble";
- He asked L&G to provide copies of all communications between it and V;
- He had complained to V – but awaited a response from it.

Mr H also provided a copy of the response from L&G dated 17 November 2023.

So I now need to make a final decision.

What I've decided – and why

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

I've looked at the correspondence which Mr H sent to us in response to the provisional decision.

At the outset, I'd just point out that in this decision I'm only dealing with the complaints Mr H referred to our service and which were the subject of my provisional decision. Insofar as the correspondence issued in November 2023 dealt with any new matters of complaint Mr H would need to raise those separately, if he remains dissatisfied with the response from L&G. I can see that in its recent letter dated November 2023, L&G has referred to the matters which were the subject of the complaints Mr H had referred to our service and which were considered in my provisional decision. However, L&G said it agreed with the outcome reached by its complaints manager and it did not think it would be appropriate to comment any further.

Mr H doesn't think enough attention has been paid to correspondence between V and L&G.

I'd just point out that in relation to the part of Mr H's complaint which L&G responded to in the first FRL, in my provisional decision I did comment on the involvement of V. In particular, I noted:

- V had submitted the transfer request via OTS;
- L&G told V that OTS could not be used for this transfer and a paper discharge form had to be submitted. It sent the documentation to V on 19 January 2022. I said I was satisfied, on balance, L&G had done this in a timely manner. There was still approximately three weeks left before the expiry date for the guarantee period; and
- L&G had not received the completed paper discharge form until 15 March 2022 – which was over a month after the guarantee value had expired.

Having considered everything again, I've not changed my view that L&G acted fairly and reasonably here. I'm satisfied, on balance, there was still sufficient time, after L&G told V that it could not accept the application via OTS, for the paper discharge form to have been completed and returned before the guarantee expiry date. Despite that, the completed discharge form was not received until over a month after the guarantee expiry date.

Notwithstanding the comments I made in my provisional decision about the involvement of V, it is the case that the complaint which Mr H referred to our service was about L&G. So, when thinking about how this complaint should be resolved I've considered the actions taken by L&G. Mr H says he has separately raised a complaint with V.

Mr H has also reiterated that he thinks L&G would've known "full well" that the transfer value was going to "tumble." In my provisional decision, I explained why I didn't think it was fair or reasonable to expect L&G to provide financial forecasts about whether transfer values might go up or down in the future. I remain of that view. L&G explained to Mr H that volatility in financial markets could have a significant impact on transfer values and the transfer value was only guaranteed until the date set out in the letter he'd been sent.

So, having thought about everything again, I've not been provided with any new or further information that causes me to change my view about how this complaint should be resolved.

My final decision

For the reasons given above I do not uphold this complaint about Legal and General Assurance Society Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 19 February 2024.

Irene Martin
Ombudsman