

## The complaint

Mr C complains about the time it has taken Scottish Friendly Assurance Society Limited (Scottish Friendly) to process the transfer of his personal pension to another provider.

## What happened

Mr C held two personal pensions – one of which was administered by Scottish Friendly – which he wanted to transfer to a drawdown plan with a new provider.

Mr C had been sent a retirement pack by Scottish Friendly on 20 July 2023 – prior to his nominated retirement age of 55. His fund value was £62,585.60. On 12 October 2023 Mr C's adviser sent a letter of authority (LOA) to Scottish Friendly but there were delays in providing that information due to identity verification requirements.

The information was provided on 16 November and an electronic transfer request was set up on 17 November 2023. I understand Scottish Friendly subsequently sent the required transfer discharge forms to the wrong address, but these were completed and returned (by email) on 4 December 2023. Scottish Friendly then said it required completion of another form relating to advice received and all the outstanding documents were returned by 18 December 2023. Mr C's pension was eventually processed on 27 December 2023 and transferred around 3 January 2024.

But towards the end of the process Mr C complained. He said he'd been trying to transfer his pension to a new provider who offered a drawdown facility, but it still hadn't completed despite him beginning the process in October 2023. He said Scottish Friendly had sent him a number of forms to complete – which he had done – but had still failed to complete the transfer.

Scottish Friendly accepted that it caused some delay and paid him £50 compensation.

Mr C didn't think this resolved his complaint fairly, so he brought it to us where one of our investigators looked into the matter. He set out a timeline of what he thought should have happened from the date that Scottish Friendly had all the information it required to process the transfer and concluded that it had taken 16 working days longer than it could have done – based on five working day standards for actioning each task. He thought Scottish Friendly should compare the value of Mr C's pension had it been transferred on 28 November 2023 and should also pay an additional £75 in compensation.

Mr C accepted the investigator's view but Scottish Friendly didn't. It made the following points in response:

- It provided its own timeline of events and was satisfied that it met its standard service times for each task it undertook during the transfer process.
- It noted that, while it told us that its response time was five to ten working days, we had assumed the minimum time where it thought the maximum time was more appropriate in managing a customer's expectation. It thought our approach on other cases had been to accept a five to ten day response time as fair and reasonable.

- Its current procedure wasn't to issue the pension advice and declaration forms at the same time as we had said it should. It said the declaration form was only necessary if a customer hadn't sought financial advice.

The investigator said he hadn't simply used a five working day standard on which to base his calculation of the delay but had considered the complexity of each request and whether some time might have been saved, for example by preparing the information requested in the LOA while it was waiting for the second piece of ID verification to be provided.

Scottish Friendly didn't accept that the investigator should arbitrarily decide how long each task it carried out should take. It thought that was covered in the overall service standard of replying within five to ten working days. It asked for the complaint to be referred to an ombudsman – so it's been passed to me to review.

### **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.

And having done so I've reached the same conclusion as the investigator in determining the length of the delay that I think Scottish Friendly caused. I'll set out my reasons below.

#### *The background to any delays*

Scottish Friendly has told us that its service standards around transfers like this one are that each task should take between five and 10 working days. It thought that, when looking at all the individual actions that took place during this transfer, we should adopt the 10 working day position as opposed to assuming five working days – which it thought the investigator had done in forming his assessment. And I think Scottish Friendly is right to ensure we take its normal service standards into consideration here.

The regulatory guidance around determining delays to pension transfers is based on the 2006 Association of British Insurers (ABI) statement of good practice which stated that:

- requests relating to transfers should be completed within 10 working days
- transfer payments should be sent electronically where possible
- cheques should only be used where the receiving provider insists or where any other payment method can't be processed

Very little guidance has been issued since then but a 2016 consultation paper carried out by The Transfers and Re-registration Industry Group (TRIG) suggested a 48 hour (business day) standard for completing each step of a transfer. TRIG is made up of the ABI and 9 other trade bodies. So I think consideration should be given to this paper as much has changed since the original guidance in 2006 which is unlikely to be appropriate given the changes that have happened in the industry. For example, the use of the electronic transfer platform (Origo) has reduced the need to send many paper documents by post and has reduced the time taken for many of the individual transfer steps.

So, while Scottish Friendly doesn't think it's fair for us to decide how long each step of the process should take – and we are sensitive to its service standard times – I think we should look at the time taken to complete each part of the transfer in light of the new technologies and methods of communication available. So I've considered any delays that might have occurred here on that basis – setting out a timeline of what's happened and comparing it to a timeline of what I think should've happened in the transfer process.

I've first started by considering what happened initially when Mr C's adviser sent a LOA to Scottish Friendly. I've been provided with a copy of the email request that was sent on 18 October 2023 requesting information which the adviser would have needed. This was eventually provided but before it could be issued unfortunately Scottish Friendly had to make two separate requests for identity verification, the second of which Mr C provided directly to Scottish Friendly on 6 November 2023.

I have considered whether 13 working days was a reasonable time for Scottish Friendly to request and receive this information – especially as Mr C provided it on or around the same day it was requested – but I'm persuaded it wasn't unreasonable in the circumstances. And Scottish Friendly didn't receive the correct information it clearly requested each time, so I can't reasonably say it caused any delay there.

But I do think that 6 November 2023 signalled the date that Scottish Friendly had all the information it required to begin the transfer process.

#### What actually happened?

The timeline of events that actually happened thereafter was follows:

On 16 November 2023 the information requested through the LOA was emailed to Mr C's adviser. The transfer was created on the electronic transfer payment system the following day.

Scottish Friendly wrote to Mr C on 30 November 2023 with the required transfer forms. But the letter was sent to the wrong address. Mr C was able to retrieve the letter and emailed the forms on 4 December – with the original documents received by Scottish Friendly on 12 December. It then wrote to Mr C asking him to complete an additional advice form requirement on 14 December which it received back on 18 December 2023.

The transfer was then processed and completed by Scottish Friendly on 27 December 2023 although it took a further seven calendar days to reach the new provider.

#### What should have happened?

As I've already said I think the transfer process should have begun on 6 November 2023 when all the outstanding requirements had been met, albeit that Scottish Friendly did require additional documents confirming Mr C hadn't received financial advice on his transfer – which wouldn't have been known by Scottish Friendly until the transfer forms had been completed and returned.

It then took Scottish Friendly 9 working days to provide the adviser with the plan information. Bearing in mind this request was originally received on 12 October 2023 – and it was only waiting for ID verification – I think Scottish Friendly should have been able to provide that information in seven working days – so by 14 November 2023. I appreciate this was a slightly more complex task to complete but Scottish Friendly had been put on notice of the request some weeks earlier. This was an avoidable delay of two working days.

It then took Scottish Friendly 11 working days to provide the transfer forms to Mr C. I've asked Scottish Friendly to confirm whether these forms were made available earlier – either to Mr C or his adviser – but it's confirmed they weren't. But I think the forms could have been created and sent within five working days as Scottish Friendly had already set up the electronic transfer process on the day after it provided the adviser with the information, so I don't think this was a particularly complex task. The forms were actually sent to the wrong

address, but it would seem Mr C was able to retrieve them without any significant delay and emailed them to Scottish Friendly on 4 December 2023. This was a delay of six working days.

Scottish Friendly then took nine working days to provide Mr C with the additional form required to confirm that no financial advice was given. But as he had already emailed the transfer forms back on 4 December 2023 it's unclear to me, even if it couldn't process the transfer without the original transfer forms – as it knew Mr C wasn't taking advice at that time, why it couldn't have sent out the additional form the following day.

If it had sent the form on 5 December 2023 I think Mr C would have returned it both by email and in the post the same day it was received, taking into account the speed with which he returned documents throughout this whole process. So I think Scottish Friendly would have had this information by 7 December and been ready to complete the transfer by 15 December 2023, which gave it seven working days to process the transfer. The original documents would have also been received during this time if required. This was a delay of eight working days.

I acknowledge that Scottish Friendly thinks that we should accept its maximum 10 day time period to action each task relating to the transfer. But as I've already said the most recent TRIG suggestion was a 48 hour turnaround time for such tasks – so I think it's appropriate and fair for me to consider each step of this process and determine how long I think is reasonable for them to take. I note that Scottish Friendly sets out a service standard of “5-10 working days” which would suggest it also puts a different tariff on tasks. Otherwise I would expect it to simply state 10 working days in each case. It also suggests that the time taken depends on the volume of work at any one time which would suggest the standard is a shifting piece depending on workload. So I think it is reasonable to consider how long things might take, as to simply say 10 days as an allowable time period for each step of the transfer isn't being fair to a consumer.

I'll set out below what I think Scottish Friendly needs to do to put things right here, but I also need to consider the impact this matter had on Mr C and the extended period over which this delay was caused. Mr C wanted to transfer because Scottish Friendly didn't offer him the drawdown option he wanted from his retirement planning. I've seen from his submissions how he wanted the transfer completed as soon as possible – as demonstrated by the speed at which he returned any outstanding documents and information - such as ID evidence. So I think the delays did impact him to some degree and caused disruption to his retirement planning at a crucial time for him.

I note Scottish Friendly paid Mr C £50 for the distress and inconvenience the matter caused but I think it needs to make a further award. I think the additional £75 the investigator recommended is fair and reasonable making an overall total of £125. That's within the range of what I might have put forward here – so I think it's fair and reasonable that Scottish Friendly should pay an additional £75.

### **Fair compensation**

My aim is that Mr C should be put as closely as possible into the position he would probably now be in if his transfer had been completed in a timely manner and without avoidable delay. I'm satisfied that what I've set out below is fair and reasonable given

Mr C's objectives at the time.

### **What must Scottish Friendly do?**

To compensate Mr C fairly, Scottish Friendly must:

- Compare the current value of Mr C's pension plan with the (notional) value had it been transferred 16 working days earlier. If the current value is greater than the notional value, no compensation is payable.
- If the notional value is greater than the actual value there is a loss and compensation is payable.
- Scottish Friendly should also add any interest set out below to the compensation payable.

Scottish Friendly should pay into Mr C's pension plan to increase its value by the total amount of the compensation and any interest. The amount paid should allow for the effect of charges and any available tax relief. Compensation should not be paid into the pension plan if it would conflict with any existing protection or allowance.

If Scottish Friendly is unable to pay the total amount into Mr C's pension plan, it should pay that amount direct to him. But had it been possible to pay into the plan, it would have provided a taxable income. Therefore the total amount should be reduced to *notionally* allow for any income tax that would otherwise have been paid. This is an adjustment to ensure the compensation is a fair amount – it isn't a payment of tax to HMRC, so Mr C won't be able to reclaim any of the reduction after compensation is paid.

The *notional* allowance should be calculated using Mr C's actual or expected marginal rate of tax at his selected retirement age.

For example, if Mr C is likely to be a basic rate taxpayer at the selected retirement age, the reduction would equal the current basic rate of tax. However, if Mr C would have been able to take a tax free lump sum, the reduction should be applied to 75% of the compensation.

- Pay to Mr C an additional £75 for the disruption caused to his retirement planning.

Income tax may be payable on any interest paid. If Scottish Friendly deducts income tax from the interest it should tell Mr C how much has been taken off. Scottish Friendly should give Mr C a tax deduction certificate in respect of interest if Mr C asks for one, so he can reclaim the tax on interest from HM Revenue & Customs if appropriate.

Any additional sum paid into the pension should be added to the notional value calculation from the point in time when it was actually paid in.

Any withdrawal from the Pension should be deducted from the notional value calculation at the point it was actually paid so it ceases to accrue any return in the calculation from that point on.

### **My final decision**

For the reasons that I've given I uphold Mr C's complaint against Scottish Friendly Assurance Society Limited.

It should carry out a redress calculation as set out above and present that information in a clear and simple manner.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 24 September 2024.

Keith Lawrence  
**Ombudsman**