

## The complaint

Mr B has complained about the difficulties and delays he experienced when transferring funds to Just Retirement Limited (JRL) to buy an annuity.

## What happened

The investigator who considered this matter set out the background to the complaint in her assessment of the case. I'm broadly setting out the same background below, with some amendments for the purposes of this decision.

In February 2023, Mr B completed annuity searches online. The first one included the provision of some medical details, and the second one didn't.

On 28 February 2023, JRL sent Mr B an annuity quote. This quote confirmed the annuity purchase price was £27,462 and would provide an annual income of £1,481.

This quote confirmed a dependant's income of 50% in the event of Mr B's death. This quote was guaranteed until 8 March 2023, and on 1 March 2023, Mr B completed and signed the Hargreaves Lansdown (HL – the provider of Mr B's self invested personal pension (SIPP)) application form for the JRL annuity. HL received the application on 3 March 2023 and processed it on 7 March 2023.

On 9 March 2023, the application was reviewed by HL and it identified that the quote was for an enhanced annuity, rather than a standard one. HL sent the application to JRL via email the same day and said the following:

*"It appears enhancement from a previous search has carried over. Please can you provide us with a standard rate quote on this basis so we can give the client the choice to sign the medical declaration form or proceed on standard quote"*

JRL received Mr B's application on 10 March 2023 and issued a quote to HL. The quote contained a small enhancement due to the medical and lifestyle information provided by HL.

The quote was accepted and, on 1 April 2023, JRL asked HL to arrange for Mr B to complete a medical questionnaire. JRL also requested the funds from HL via the Origo system.

On 5 April 2023, HL processed the Origo request. And HL emailed Mr B on 17 April 2023 to confirm that the payment would be sent to JRL that day. JRL received the funds on 18 April 2023.

In May 2023, HL asked Mr B to complete a medical questionnaire, but Mr B explained that he wanted a standard annuity.

HL emailed JRL on 4 May 2023 and said the following:

*“This client’s quote has been run as a standard annuity and therefore a health declaration is not required... we look forward to receiving the final quote.”*

JRL replied on 6 May and said:

*“We have offered a small enhancement on the client’s policy, therefore we do require the medical forms to be completed... If you wish for us to proceed on a standard rate, we can remove the medical information, but this also means the rate will decrease. Please advise how to proceed. We are in receipt of funds.”*

On 22 May 2023, HL received another email from JRL. It said that, as the quote was an enhanced quote, it required a medical declaration.

HL replied straight away and said the following:

*“Due to a glitch on our annuity portal, when standard quotes are run for some reason it still includes an enhancement on the [JRL] quotes if the client has provided med info for previous quotes.*

*This is being reviewed however, in the meantime, please could you provide a standard quote we can send to the client and see if they would like to accept this/return the med dec instead?”*

Mr B contacted HL on 26 May 2023 and said he hadn’t heard from JRL. He asked HL to find out when his annuity payments would start.

When no reply was received, Mr B emailed again and asked HL to find out when his annuity purchase would be completed.

HL responded and said it had spoken to JRL and the annuity should be set up within a few working days.

On 15 June 2023, HL contacted JRL to request an update. Again, JRL requested that Mr B complete a medical declaration.

Following this, HL created an email to Mr B and said:

*“[JRL] have requested that you complete the attached declaration form in order to finalise your annuity.”*

But it seems that this email wasn’t actually sent to Mr B until 2 August 2023.

On 18 June and 5 July 2023, Mr B chased HL again for an update, as he had heard nothing and no payments had been received.

On 14 July 2023, the annuity rate expired. JRL asked its underwriting team to remove the medical disclosures and sent a new quote to HL on 14 July 2023. It maintained the initial quote, however.

JRL emailed HL on 26 July 2023 and said the following:

*“Please provide us with the signed medical declaration for both Mr and Mrs B. We cannot proceed without this. We have had the funds since the 18th April.”*

Mr B emailed HL on 31 July 2023 and expressed his dissatisfaction with the delay. He said the following:

*"It is nearly 5 months now to process the [JRL] annuity I requested. Please can you escalate this as I keep being told progress is being made when in reality nothing seems to be happening."*

The email from 15 June 2023 in which HL asked Mr B to complete the medical declaration was then sent on 2 August 2023. HL also raised a complaint for Mr B.

Mr B responded and once again explained that a health declaration wasn't required. He said the following:

*"You and [JRL] should not be going round in circles on this point. As you can tell I am very disappointed..."*

On 7 August 2023, HL confirmed to JRL that Mr B didn't want to proceed on an enhanced basis and requested a quote on a standard basis. Its email said the following:

*"If this has already been sent, please can it be resent."*

JRL had already sent it on 14 July 2023 but reissued it on 8 August 2023.

HL has said that, although it received this quote, it didn't forward it to Mr B for his acceptance.

The following month, on 6 September 2023, Mr B emailed HL and said the following:

*"Please could you provide an update on progress since 8 August? I see that market annuity rates have improved and I do not wish to take out an annuity less than the current best performing market rate.*

*Also as my funds could have been invested over the long period this has taken, will suitable compensation be made available?"*

The following day, HL emailed JRL and asked for the quote again. JRL sent the quote again on 13 September 2023.

Mr B emailed HL on 13 September 2023 and asked that they retrieve his funds from JRL. HL asked JRL to cancel the annuity and return the funds on 19 September 2023.

On 26 September, JRL asked for the bank details to which it should return the funds, however these funds were not received by HL until 15 January 2024.

On 28 September 2023, HL raised a complaint with JRL, on behalf of Mr B. As part of the complaint, it said the following:

*"Mr B has complained to [HL] directly regarding his annuity application. We believe that [JRL] have caused delays due to an error in requesting a Medical Declaration when the client applied for a standard annuity (without enhancement).*

*We are aware of an issue whereby [JRL] were incorrectly applying medical information to a standard annuity quote which we believe was corrected in May 2023. Mr B has been financially impacted due to this processing error."*

Mr B then submitted his complaint to this service. Mr B had also complained about HL, and submitted a similar complaint, on the basis of maladministration and delays, to this service.

When JRL replied to this service's request for its business file, it said that it didn't feel it was at fault in the delays experienced by Mr B, and it was going to wait for this service's investigation outcome before issuing its final response.

Having considered the matter, the investigator thought that the complaint should be upheld. She said the following in summary:

- Mr B had initially submitted a request for a quote on a standard basis, but an enhancement was still included in the quotes which JRL produced.
- This was due to HL's system, which had pulled through Mr B's medical notes and requested the quote on an incorrect basis. It was reasonable for JRL to have asked for medical information on that basis, which it did on 1 April 2023, and so it wasn't responsible for the initial delays.
- Thereafter, HL informed JRL that the quote was to be on a standard basis, but JRL then asked Mr B to complete a medical questionnaire five times between 1 April 2023 and 26 July 2023. For its part, HL told JRL that the quote was to be on a standard basis five times as well, between 9 March 2023 and 7 September 2023.
- There was therefore clearly much confusion between the parties. And the investigator thought that both parties were at fault in that regard.
- Mr B also asked for updates five times between 26 May 2023 and 6 September 2023, until he finally asked for the annuity to be cancelled and the funds to be returned from JRL on 13 September 2023. Mr B was clearly very frustrated and concerned at the lack of progress between March and September 2023.
- But 12 weeks later, Mr B's funds hadn't yet been returned by JRL. The investigator noted that HL held JRL responsible for this, and so she had asked JRL why it took so long to return the funds. Unfortunately, JRL hadn't replied, so there was no explanation for this.

The investigator therefore concluded that both HL and JRL had contributed to the delays incurred here.

The investigator had previously set out to both parties, in the respective complaints to this service, that Mr B had suffered a financial loss as, between 18 April 2023 to their return from JRL in January 2024, the pension funds had been held in cash. Mr B wasn't receiving his annuity income in that period, nor was he receiving an investment return.

The investigator had noted that, since the funds had been returned to HL, Mr B hadn't bought an annuity and had instead remained invested in a similar way as he had been before.

To put matters right for Mr B, the investigator had recommended that HL calculate what Mr B's pension funds would now be worth, had he not opted for the annuity in the first place and remained invested with HL in his SIPP the whole time.

If there was a loss, this would need to be repaid to Mr B's SIPP. From May 2023 to September 2023, HL had caused the majority of the delay – so a total of four months. JRL

then failed to return Mr B's pension funds until January 2024, after this had been requested in September 2023, which was also a four month delay.

Therefore, if there was a loss to Mr B's SIPP, it was fair that HL and JRL should be equally responsible for this.

JRL hadn't responded to this recommendation. However, HL had said that, whilst it agreed with the assessment, it didn't think it should be held accountable for the losses during the period in which JRL hadn't returned the pension funds.

The investigator said that she agreed, and that JRL should therefore be responsible for any loss between 19 September 2023, when the return of funds was requested, to 15 January 2024, when the funds were returned to HL.

Origo had been used to transfer Mr B's funds, and so allowing for five working days which would be reasonable for the Origo system, if they had been requested by HL on 19 September 2023, they ought to have been returned by 26 September 2023.

And so, the investigator said, JRL should calculate the notional value of Mr B's SIPP had the funds been returned and reinvested on 26 September 2023, and compare this to the SIPP's actual value.

The investigator said that, in the first instance, any loss should be paid into Mr B's SIPP, allowing for the effect of charges and any available tax relief. It shouldn't be paid into the SIPP if it conflicted with any existing protection or allowance.

If payment into the SIPP wasn't possible, the investigator said, it should be paid directly to Mr B, with a deduction for the presumed basic rate income tax he would pay on 75% of the fund (allowing for tax free cash) – so a deduction of 15%.

The investigator added that, in light of the trouble and upset JRL had caused to Mr B in delaying the return of his pension funds for almost four months, it should pay him £550 in respect of this.

Mr B agreed with the recommendation. HL also agreed with the investigator's recommendation on the complaint against it. JRL didn't respond, however.

As agreement hasn't been reached on the outcome, the matter's been referred to me for 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 broadly the same conclusions as the investigator and for similar reasons.

I agree that a period of nearly four months to return Mr B's pension funds was excessive, and I note that, despite being afforded the opportunity to explain this, JRL has declined to do so.

As such, and given that it also hasn't responded to the investigator's assessment or the confirmation that, as a consequence the matter would be referred to an ombudsman for review, I see no reason to depart from the investigator's conclusions. They seem fair and

reasonable to me, and I think the splitting of the periods of responsibility between the parties as suggested by the investigator here would be fair in the circumstances.

I also consider that the recommended method of calculating whether Mr B has been financially disadvantaged by the delays caused by JRL is appropriate.

### **Putting things right**

As with the investigator, my aim in awarding fair compensation is to put Mr B back into the position he would likely have been in, had his funds been returned to HL on 26 September 2023, meaning he would've been invested with HL from 26 September 2023 to 15 January 2024.

Any loss Mr B has suffered should be determined by Just Retirement Limited obtaining the notional value of Mr B's SIPP, at the date of this final decision, on the basis that Mr B's funds were re-invested on 26 September 2023, and comparing this to the actual value of the SIPP as at the same date.

That actual value of the SIPP should take into account any compensation which HL may also have paid into it. So if HL has paid compensation for the initial loss period, meaning the actual value is now higher, then the notional reinvested value as at 26 September 2023 should also be considered to have been proportionately higher.

Just Retirement Limited should, if possible, pay the compensation amount into Mr B's SIPP. The payment should allow for the effect of charges and any available tax relief. The compensation shouldn't be paid into the pension plan if it would conflict with any existing protection or allowance.

If a payment into the pension isn't possible or has protection or allowance implications, it should be paid directly to Mr B as a lump sum after making a notional reduction to allow for future income tax that would otherwise have been paid.

If Mr B has remaining tax-free cash entitlement, 25% of the loss would be tax-free and 75% would have been taxed according to their likely income tax rate in retirement – presumed to be 20%. So, making a notional reduction of 15% overall from the loss adequately reflects this.

I've also noted the investigator's recommendation that Just Retirement Limited should pay Mr B a further £550 for the trouble and upset caused by the delays in returning his pension funds to HL.

Having considered the number of months' delay and the worry and uncertainty which Mr B would have been caused by not knowing when he'd be able to reinvest his pension funds, along with similar awards which this service might make in similar situations where the impact of a business' error is felt over a prolonged period of time, I think that the amount is appropriate in this instance.

And so I agree that Just Retirement Limited should pay Mr B the additional £550.

### **My final decision**

My final decision is that I uphold the complaint and direct Just Retirement Limited to undertake the above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or

reject my decision before 6 August 2024.

Philip Miller  
**Ombudsman**