

The complaint

Mr D has complained about the delays in transferring his pension held with Liverpool Victoria Financial Services Limited ('LV') to Legal and General ('L&G') to purchase an annuity.

Mr D has stated that delays caused by LV resulted in a quoted annuity rate expiring. When a new annuity quote was provided by L&G the rate had dropped, causing Mr D a financial loss.

What happened

L&G provided Mr D (via his IFA) a quote for a "Cash-Out Retirement Plan" on 23 November 2023.

Tax-free cash of £14,975 would be paid by L&G once the funds were received and Mr D would then receive £5,563.80 annually in arrears for ten years. The quote was valid until 2 January 2024. This date was subsequently extended to 7 January 2024.

L&G sent an Origo request to LV to transfer the funds on 30 November 2023.

LV have confirmed this was uploaded to their system the following day.

On 19 December 2023 Mr D's IFA contacted LV for an update.

L&G then asked for an update via the Origo system on 4 January 2024.

The payment was processed and authorised on 10 January 2024, with the funds being sent to L&G the following day.

Given the original annuity quote had expired, and given the new quote was going to provide Mr D with a lower income over the following ten years, Mr D registered a complaint with LV (via his IFA).

LV issued their complaint response on 5 March 2024. This accepted that Mr D was now going to receive income of £5,232 rather than £5,563.80. LV's response also accepted that their claims team had been experiencing a small backlog of cases over the festive period and that the funds should have been transferred on 22 December 2023. LV apologised and offered Mr D £100 by way of an apology.

However, LV said that the Origo transfer request did not explain that the transferred funds were to be used to purchase an annuity, that no expiry date for the annuity quote was included on the transfer request, that Mr D's IFA had not made them aware of the urgency of the transfer during the update call of 19 December 2023, and stated that if they had been made aware of the urgency of the transfer at any of these points in time, then Mr D's application could have been prioritised and the deadline met.

Unhappy with LV's offer, Mr D, via his IFA, replied to LV stating that they did not believe the content of the Origo request or the update call in December 2023 altered LV's responsibilities.

LV confirmed they stood by their original complaint response and as such Mr D referred his complaint to this service in June 2024.

Our investigator looked into things and upheld the complaint. The investigator agreed with LV that the funds should have been transferred sooner and said that if LV had transferred the funds in line with their own internal service level agreements, then the original annuity quote would have been secured. Our investigator did not believe that the content of the Origo request or the update call merited changing their outcome.

LV did not agree, re-stating that had the Origo request been completed differently, or had Mr D's IFA made them aware of the deadline, they would have prioritised the transfer and ensured the deadline was met. LV did not believe the fact they missed their own internal timescales for completing the transfer was sufficient to hold them accountable for Mr D's losses.

As our investigator was not minded to change their opinion the case has been passed to me for 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.

The total time taken from transfer request via Origo to funds being received was 27 working days.

LV have accepted that this sits outside of their internal timescales for such a transaction. However, as above, LV have also stated that had they been made aware (either by L&G or Mr D's IFA) of the nature of the transfer and the deadline in force they would have acted differently.

I have considered the relevant guidance and good practice when reaching this decision. The Transfers and Re-Registration Group (TRIG), whose membership contains several trade bodies, issued an industry-wide framework for transfers and re-registrations in June 2018.

This document clarifies that this type of transaction would be considered a "cash transfer".

"Cash transfers: This refers to the movement of assets in the form of cash between providers. This involves the encashment of holdings, with the current provider moving the realised value of the assets to the new provider."

Excerpts from this framework also state:

"When moving investments, assets and entitlements between institutions, people have a legitimate right to expect the industry to execute their instructions in a timely and efficient manner. Furthermore, customers' service expectations are increasing due to the relative simplicity of switching in other markets."

"For transfers between two counterparties involving cash assets, the TRIG believes that providers should adopt an end-to-end good practice standard timescale, from when the acquiring provider receives a completed instruction from the client, to the receipt of the transferred funds."

"For pension cash transfers between two counterparties, this standard should be 10 business days, including BACS timescales. As existing industry practice is often

measured in calendar days, 14 calendar days can be taken to be 10 business days for the purpose of this SLA.”

In this case there is no evidence on file to suggest that the process of encashing and transferring Mr D's pension to L&G would fall into a more complex category of transfer where a step-by-step standard of assessing the timeliness of the transfer would be considered more appropriate.

Even if this were to be the case, allowing two working days for each step of the process (as per the TRIG framework) would, or should, have resulted in the transfer being completed prior to the 7 January 2024 deadline.

It is also worth noting that the STAR initiative was also launched in 2018 to help deliver the framework above, with LV being a member organisation.

LV have said that L&G should have submitted the Origo request differently, with the request confirming the transfer was to fund an annuity purchase.

I accept that had this been done, LV may have acted differently, and I have considered whether this should result in L&G being held responsible for some / all of Mr D's losses.

However, a key point here is that L&G's Origo request (stating the transfer was a pension-to-pension transfer) did not actually cause any delay, it simply removed the possibility of LV prioritising the case.

As per the industry best practice highlighted above, and LV's own internal timescales, regardless of how the transfer was requested, LV should have completed the transfer sooner. As such I consider it reasonable to hold LV (rather than L&G) responsible for the delays suffered by Mr D.

I have also considered the call between Mr D's IFA and LV in December 2023. Whilst a recording of the 19 December 2023 call between LV and Mr D's IFA isn't on file, LV's own notes regarding the content show that they said, *“Assuming nothing outstanding, shouldn't be too long before being transferred”*. As such, whilst Mr D's IFA did not make LV aware of the impending 7 January 2024 deadline, I believe the content of the call (as per LV's notes) show that Mr D's IFA was reassured that the transfer would be completed in time.

Had LV made the IFA aware of their backlog of cases at that time, Mr D's IFA may well have, at that point, referenced the annuity deadline.

Overall, whilst I accept that had L&G and Mr D / his IFA acted differently, LV could have prioritised the case and completed the transfer sooner, industry best practice and LV's own internal standards show that L&G and Mr D / his IFA should not have had to act differently for the transfer deadline to have been met.

Both L&G and Mr D were entitled to have a reasonable belief that the transfer would be completed in time without further action / chasing from them.

As such, in line with what our investigator has already said I am upholding this complaint and am holding LV responsible for any losses Mr D may have incurred.

The redress below is in line with what our investigator has already said.

Putting things right

LV should put Mr D as close as possible to the position he would most likely now be in had there been no undue delay.

As per LV's timeline, the transfer would have been completed by 22 December 2023 and the 10- year fixed term annuity would have been purchased after taking tax-free cash on 23 December 2023 (this is mirroring what actually happened i.e. L&G received the funds on 10 January 2024 and annuity purchased the next day on 11 January 2024).

Fair compensation

My aim is to put Mr D, as far as possible, in the position he'd probably be in now if there'd been no delay in LV transferring the funds. I've set out below how I think LV should calculate and pay redress to Mr D. LV should also provide details of its calculations to Mr D in a clear and simple format.

Tax free cash

- LV should determine whether, as a consequence of their delays, Mr D would've been entitled to a higher amount of tax-free cash:
- LV should calculate the amount of tax-free cash Mr D would have received as of 23 December 2023.
- LV should then compare that to what Mr D actually received on 11 January 2024.

If Mr D would have received more tax-free cash on 23 December 2023, then LV should pay him the difference. LV should also add 8% simple interest p.a. from the date that the tax-free cash should've been paid to the date of settlement.

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

I note here that information on file indicates that the actual amount transferred by LV was correct, based on historic unit prices. As such there is unlikely to be any change in the actual tax-free cash amount which would have been payable. However, as per our investigator's commentary, tax-free cash would have been received by Mr D earlier were it not for the unreasonable delays.

Compensation for future loss

- Compare the rate of annuity with that of the annuity he would've got if L&G had received the funds to purchase the annuity on 23 December 2023.
- If the rate that would've applied on 23 December 2023 is higher, LV should, if possible, pay into Mr D's annuity fund with L&G, to bring Mr D's annuity payments up to what they would have been had L&G received the funds on 23 December 2023.
- The payment should allow for the effect of charges and any available tax relief. The compensation shouldn't be paid into the annuity fund if it would conflict with any existing protection or allowance.
- If LV is unable to pay the compensation to increase Mr D's annuity fund, LV should arrange a new annuity fund for him to make up the shortfall in the annuity payments and

to bring Mr D's total annuity income up to where it should've been, had LV not delayed the transfer.

- If LV is unable to set up a second annuity fund for Mr D it should pay an amount direct to him that is the capital sum that would in theory buy the 'top up' annuity. But had it been possible to pay into the annuity fund, it would've provided a taxable income. Therefore, the compensation should be reduced to notionally allow for any income tax that would otherwise have been paid.
- The notional allowance should be calculated using Mr D's actual or expected marginal rate of tax at his selected retirement age. For example, if Mr D was a basic rate taxpayer at the selected retirement age, the reduction would equal the current basic rate of tax.

Compensation for past loss

If there is any past loss, then LV should:

- Calculate the total net annuity payments Mr D has received to date, deduct that from the total net notional annuity payments he would have received to date and pay the difference as a lump sum to compensate for the past loss and receiving a lower annuity rate than he should have done.
- Interest at 8% simple p.a. should be added to the shortfall in annuity payments, calculated from the date each annuity payment would've been paid to the date of settlement.

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

Distress and inconvenience

LV has paid £100 compensation for the distress and inconvenience experienced by Mr D. I am not making any further award in this regard.

My final decision

In line with the commentary above I am upholding this complaint and require Liverpool Victoria Financial Services Limited to calculate and pay redress in line with the instructions above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 28 October 2024.

John Rogowski
Ombudsman