

The complaint

Mr L has complained to TenetConnect Limited about the delays he feels were caused by it in the process of transferring his defined benefits from an Occupational Pension Scheme (OPS). Mr L has said that the delays caused him financial loss.

What happened

Mr L met with an adviser of Copeland Wealth Management Ltd, an appointed representative of TenetConnect, in 2019 to discuss his financial circumstances. A “fact find” document completed on 30 September 2019 recorded Mr L’s circumstances as follows:

- He was 56 years old, married, and was both employed and self-employed.
- Mr L owned his own home, and also had an interest in a holiday home and an investment property.
- Mr L had accrued (deferred) defined benefits in an OPS, with a cash equivalent transfer value (CETV) of approximately £507,000 and this had an expiry date of 20 December 2019.
- Mr L also had two personal pension policies (PPPs) with a combined value of approximately £363,000.
- Mr L had around £200,000 in various deposit accounts, along with further amounts in joint accounts.

Having reviewed Mr L’s circumstances and objectives, TenetConnect recommended that Mr L not transfer his defined benefits on 25 November 2019. But Mr L responded on 28 November 2019 by email, and again on 2 December 2019, saying that he disagreed with the advice.

The adviser drafted a further rationale on 3 December 2019 for transacting the transfer business on an “insistent client” basis, and then submitted a case to TenetConnect to review the advice as to why he then considered the transfer should proceed.

Mr L was abroad for much of December 2019, but he initially complained to TenetConnect on 20 December 2019 about the service he’d received, and about the decision to not recommend the transfer. Mr L said that he was a sophisticated client and that advice should have been tailored to his and his wife’s individual circumstances, rather than the risk averse “one size fits all” approach which he felt had been adopted here.

Specifically, Mr L complained about TenetConnect not processing the transfer on an insistent client basis. He said that time was of the essence and any delay could result in a significant penalty (a reduced CETV). He’d asked his OPS administrator for an extension, but it was uncertain as to whether this would be granted.

Mr L said that, after lengthy delays, he still hadn’t received a response to his request to be

treated as an insistent client.

But TenetConnect then wrote to Mr L on 24 December 2019 saying that it had decided not to facilitate the transfer even on an insistent client basis.

Mr L then completed the transfer through a different advisory firm. But as the deadline for the CETV had expired, a new one was issued, which was some £15,000 lower than the original.

TenetConnect responded to Mr L's complaint on 7 February 2020 in the following terms:

- It stood by the rationale provided to Mr L as to why it couldn't recommend the transfer of his defined benefits. It said that the advice had been reviewed by its in-house specialist team and that it had confirmed its view that advice to transfer would be unsuitable.
- In terms of it declining to transact the business on an "insistent client" basis, it said that the adviser had contacted its "advice support team" immediately after receiving Mr L's reissued email on 2 December 2019 rejecting the advice.
- It explained that the decision to accept business on an insistent client basis wasn't one which could be taken by the adviser, but rather by its "advice quality forum", which discussed such cases and reached decisions based on their individual merits.
- It noted that the adviser had submitted a comprehensive report to support the insistent client categorisation, but as Mr L was out of the country until 30 December 2019, it had been unable to discuss the outcome with him until he returned.
- It also understood that Mr L had been able to secure an extension to the CETV expiry date of 20 January 2020, albeit with some caveats as to the quoted figures.
- The decision to not proceed on an insistent client basis hadn't been taken lightly, but it was one which it had been entitled to make on the basis of several considerations, including the risk to which it might be exposed in doing so. And it requested that the adviser communicate this to Mr L at the beginning of January 2020.

Dissatisfied with the response, Mr L submitted his complaint to this service, where one of our investigators considered the matter. He said the following in summary:

- He thought the main issue to consider was whether the advice was suitable. And he said that the regulator had given clear guidance that it was at the discretion of a business as to whether it accepted insistent client requests.
- If the business felt that it wasn't in the client's best interests to transfer, it was up to it to decide whether to be involved in the process. It could nevertheless provide confirmation that advice had been given, which could mean that a different firm could then facilitate the transfer.
- The starting point for considering a transfer proposition was to assume that it would be unsuitable, unless it could clearly be demonstrated otherwise, i.e. that the client would be better off by transferring.
- This was a relatively complex proposition, given Mr L's view that capital from the pension could provide a greater return if the tax free element, along with cash savings, were used to invest in rental properties within his business.

- In the investigator's experience, pension transfer advice was essentially a comparison of the scheme benefits with how they might look if invested in a PPP.
- The pension benefits were designed primarily to provide a pension income – and this was also the case here, as any subsequent investment of the pension proceeds was designed to produce a long term income through investment in property. So the means of providing that income was different here.
- It wouldn't have been possible to make a fair comparison between the scheme benefits and those which might be produced from property income – the latter would require an investment of time and expertise from Mr L, which wouldn't have been the case with the former.
- He understood Mr L's position in that he would expect superior returns from rental properties, but he also acknowledged TenetConnect's position that, when comparing the scheme benefits with the returns from a typical PPP, the case for a transfer wasn't compelling – especially as the scheme would provide a large proportion of Mr L's required income in retirement without taking any investment risk.
- He also understood TenetConnect's position that the most suitable course of action for Mr L would be to retain his deferred OPS benefits and use other resources available to him for his desired purpose – and which didn't have valuable guarantees attached to them.
- The mix of guaranteed scheme benefits, PPPs and investment properties would also represent a balanced and varied portfolio providing income in retirement.
- Overall, given the other resources which Mr L had to fund his property investments, the investigator didn't think it was unreasonable for TenetConnect to have advised that Mr L retain his deferred scheme benefits.
- He further noted that the recommendation was sent to Mr L in late November 2019, at which point there was still three weeks before the CETV's expiry. It was then a matter of commercial judgement for TenetConnect to determine whether it wished to facilitate the transaction on an insistent client basis – and on the basis of its regulator-endorsed discretion not to, it decided against this.
- Although the investigator noted Mr L's comments that conversations about the transfer had begun early in 2019, he also said that the CETV then had been in the region of £400,000, which would have made earlier advice, if given, even more likely to be that Mr L shouldn't transfer.

Mr L disagreed, however, submitting the further following comments:

- He provided further background to his position in 2019, which included many years of interactions with the regulator, auditing advice given by advisers, and dealing with this service. He therefore had a reasonable knowledge of risk and compliance issues.
- Due to his and his wife's strong financial position, he had no need or desire to draw on the scheme pension in the conventional manner. His preference was to use it in the most tax efficient way for the long term benefit of his children. This took account of the low gilt rates at the time and the subsequent impact on CETVs.
- He'd been working with the adviser since 2018, which was prior to the latter

becoming an appointed representative of TenetConnect. This had resulted in the establishment of a Self Invested Personal Pension (SIPP) to use Mr L's unused pension contribution allowance - and also to receive the CETV from his deferred scheme benefits. This would be discussed again in 2019, once Mr L had received a CETV.

- Mr L received the CETV in February 2019, but although several meetings were held, along with many telephone conversations and text messages, he began losing confidence that it would be completed. He was, nevertheless, consistently reassured by the adviser that it was going through and that the transfer was a "no brainer".
- Mr L provided examples of correspondence dates, beginning with a chaser in April 2019, fee amendments in June 2019, additional client information provided in July 2019 and then a period of inactivity.
- It then became clear that conversations between the adviser and TenetConnect weren't going well and that the latter had lost its appetite for defined benefits transfers.
- The timeline indicated by the investigator had therefore been predated by other events by several months. The first CETV had in fact been obtained in February 2019, which then expired in May 2019. The transfer hadn't been completed due to the delays attributable to the adviser and TenetConnect.
- Although the adviser assured Mr L that he was asking for a new CETV from August 2019 onwards, the scheme administrators said that the application for this hadn't been received until 12 September 2019.
- The CETV was issued on 20 September 2019, at which point the clock began ticking once more. He expressed concerns throughout September 2019 about the continuing delays, and although he offered to complete any further documentation which might be required, the adviser said that he should have everything he needed.
- Mr L reminded the adviser that he'd be abroad from 3 December 2019, and then further forms were requested on 30 September 2019.
- Although he acknowledged that the advice process can take some time, Mr L believed that it had taken far longer than it should in this case. Nor had his specific circumstances been considered.
- But Mr L was nevertheless assured that matters were close to being resolved. The next contact he had from the adviser was 11 November 2019, which was a request for details of his wife's pension policies – although this had already been provided.
- The next contact was on 25 November 2019, which was confirmation that TenetConnect had decided to not recommend the transfer. Instead, it recommended an irrelevant and unnecessary whole of life policy, with high premiums.
- Mr L challenged this on 28 November 2019, asking that his specific circumstances be taken into account, and that he be treated as an insistent client. He also asked for the reasons as to why the transfer wasn't being recommended, but neither he nor the adviser ever received these.
- He complained on 20 December 2019, but also said that he'd been able to secure an extension to the CETV's expiry date, which would give TenetConnect time to

complete the transfer.

- Mr L spoke to TenetConnect on 23 December 2019, but it was unwilling to discuss the matter while he was overseas. But it did confirm that, whatever information was reviewed, under no circumstances would TenetConnect be authorising the defined benefit transfer.
- The following letter dated 24 December 2019 which declined Mr L's request wasn't received, but was instead sent to his adviser. Mr L wasn't informed of TenetConnect's final decision - which gave no specific reasons for it - until 10 January 2019. He was advised that he should seek assistance elsewhere.
- He did then seek the assistance of another firm, and the transfer proceeded seamlessly, but because of the delays incurred by TenetConnect, the CETV had reduced by over £15,000.
- Mr L believed that TenetConnect had no intention of recommending the transfer, as it had a blanket policy of not doing so due to compliance concerns. His adviser was new to the firm and so hadn't initially followed that "party line".
- Although he agreed that any transfer recommendation needed to be in the best interests of the client, he didn't think that his best interests or circumstances were ever fully considered.
- A further consideration beyond suitability should be the time taken to reach the conclusions it did. The process took nearly a year to conclude, during which all information requests had been acted upon by Mr L quickly. There was a piecemeal approach to data gathering and collection, along with a total lack of urgency, which fell far below the standards a consumer could reasonably expect.
- The focus upon the utility of the tax free cash for investment purposes was something of a red herring which was brought about by the adviser's recommendations. Taking tax free cash was considered a standard course of action, and as the adviser knew Mr L was buying an investment property, he suggested that Mr L use it towards that purpose.
- Mr L in fact used other funds for the investment and all of the transferred pension funds remained invested, representing an efficient savings vehicle for inheritance tax purposes. The whole of the fund, whilst not guaranteed in value, could be passed to his children upon his death, rather than producing an income for his wife which she didn't need. It represented a very small percentage of his and his wife's overall wealth, and as such there was a very compelling argument for someone in his position to have transferred.
- Mr L considered that he'd sustained a considerable financial loss due to TenetConnect's failings, to which had been added the many hours of chasing and resending information, which had led to much stress and anxiety.

The investigator considered Mr L's further submissions, and then wrote to both parties in the following terms:

- Although he assumed that the advice would still have been to not transfer, and that TenetConnect wouldn't have facilitated the transfer on an insistent client basis, he thought there had been avoidable delays in the process, and as such he now considered the complaint should be upheld.

- He noted the timeline, as set out above in Mr L's commentary, which began with Mr L obtaining the CETV in February 2019, and which was then discussed with the adviser in March 2019.
- He noted that the client agreement was established in early July 2019, but after the first CETV had expired, the second one wasn't requested until 12 September 2019. He concluded that there'd been a considerable period of inaction which had delayed the acquisition of the CETV.
- The investigator said that it was difficult to precisely identify the timeframe which should have transpired, but he thought it would have been reasonable for the adviser to arrange the relevant information requests within two weeks of the client agreement being established on 3 July 2019.
- This meant that the CETV would have been received eight days later – and so on 25 July 2019. This was 57 days earlier than it was actually received.
- He concluded that the same process of recommending that Mr L not transfer, and then declining to facilitate the transfer on an insistent client basis would have occurred, but that this also should have been concluded sooner.
- In particular, the investigator said that it took too long for TenetConnect to respond to Mr L's request on 2 December 2019 that he be treated as an insistent client. Although a letter had been produced on 24 December 2019 confirming that it wouldn't treat him as an insistent client, this wasn't in fact confirmed to Mr L until 20 January 2020.
- Mr L should have had an answer to this by 24 December 2019 – the same date that TenetConnect produced the letter. On the basis of him not receiving anything further from TenetConnect by 10 January 2020, Mr L had preliminary discussions with the firm which did then process the transfer on his behalf. And this meant that there was an additional 17 day delay added to the earlier 57 day delay.
- In turn, this would have meant that Mr L would have had discussions with the alternative firm on 29 October 2019, and as did then happen, the new CETV would have been produced 31 days later on 29 November 2019.

As such, the investigator recommended that redress be calculated as if the transfer had completed 74 days earlier than it did. To establish whether redress was due, he said that TenetConnect should approach the scheme administrators to determine the notional CETV as at 29 November 2019, along with establishing the notional value of Mr L's pension funds had the investments been arranged 74 days earlier than they were.

If there was a loss, this should be paid to Mr L's pension plan, or if this wasn't possible, then directly to him with a reduction for the income tax which would be paid on that sum in retirement.

The investigator also recommended that TenetConnect pay Mr L the further sum of £300 to reflect the inconvenience and trouble caused to him by the delays over several months.

TenetConnect disagreed, however, saying the following in summary:

- Leaving aside the issue of potential delays in the process, it said that any "loss" in the CETV was a result of Mr L's actions in ignoring its advice and proceeding with the transfer through a different firm.

- As endorsed by the investigator, it was entitled to not facilitate a transfer which it considered to be unsuitable. It therefore couldn't follow that it should be held responsible for any subsequent drop in the CETV. To suggest otherwise would set a dangerous precedent whereby firms would be expected to act as "CETV insurance", with clients moving from firm to firm until they found one which would facilitate a transfer which was clearly not in their best interests.
- If the advice of the further firm involved here was to transfer, our position should be that the advice to transfer was unsuitable – and TenetConnect shouldn't be held accountable for any loss caused by Mr L's own actions.
- Addressing the timeline of the process, it said there were some inaccuracies in the portrayal of this. Although it had been assumed that obtaining the CETV sooner would have hastened the process, it was sometimes the case that a CETV was requested later in the process to provide the maximum amount of time before expiry.
- Providing advice on defined benefit transfers wasn't a simply binary process – it took time. In this case, it took five months, which TenetConnect didn't think was an unreasonable amount of time for it to complete. It provided a timeline from 2 July 2019, when the client agreement was signed, to 10 January 2020, at which point its director confirmed by email that it wouldn't proceed on an insistent client basis.
- Mr L had himself spent much time during December 2019 and January 2020 trying to justify why TenetConnect should proceed on an insistent client basis.
- There had been no agreement that an application should be submitted in August 2019 – this wasn't borne out by any communication or correspondence.
- There was no urgent need, such as ill health, for the transfer to proceed and Mr L wasn't aware of the high CETV until it had been obtained in September – so any "delays" between July and September weren't really delays at all. The process took place between September and November 2019 – so within three months. Any "failing" was restricted to the adviser obtaining Mr L's client agreement earlier than required.
- Email correspondence demonstrated that the adviser asked Mr L for information on 15 May 2019 which wasn't sent until July 2019. The adviser then emailed Mr L on 6 September 2019 to ask him to seek an indicative CETV update online, to which Mr L replied that he would try to do so that evening – but TenetConnect didn't consider that this implied there was any sense of urgency.
- This furthermore suggested that the agreed course of action was that the CETV should be requested in September 2019 precisely because, due to market conditions, it was likely to be at an "all-time high".
- Mr L was told that TenetConnect wouldn't be proceeding on an insistent client basis upon his return to the UK – it referred to the letter of 24 December 2019 – and this would have been late November 2019 if he hadn't been abroad. That he didn't accept this position and emailed it several times requesting that it change its mind doesn't mean that he wasn't informed of the position until late January 2020.
- Had Mr L not been abroad, he would have been informed that it wouldn't proceed on an insistent client basis in late November 2019 and this would have given him a further two months to ask another firm to transact the business on his behalf. Even if the CETV had been obtained by another firm on 29 November 2019, no action could

have been taken due to Mr L being abroad until January 2020.

- There was no guarantee that the process would then have been completed in time – it would have taken three months had Mr L been in the UK – it would have theoretically taken four months with him abroad. This would have meant that a further CETV would be needed.
- Ultimately, had Mr L accepted its advice in the first place, no loss on the CETV could in any case have been possible. It was TenetConnect's position that there was never any intention to request a CETV any earlier, and that Mr L was responsible for any reduction in the CETV.

The investigator considered these further comments, but wasn't persuaded to change his view on the matter, saying the following in summary:

- He agreed that Mr L had the intention of transferring his defined benefits, and that TenetConnect needed to provide suitable advice, which could include a recommendation to retain those benefits. He further agreed that it was entitled to not proceed on an insistent client basis.
- He said that his view wasn't that TenetConnect had caused Mr L to receive a lower CETV. Had the process been shortened, Mr L may in any case have received a lower CETV. He was instead seeking to establish a reasonable timeline for completion of the process.
- He said it was clear that the adviser disagreed with TenetConnect about the suitability of the transfer, and that this was likely to be due to them being inexperienced in submitting defined benefits proposals to it.
- There was an argument that the adviser could have issued the recommendation and then Mr L could have arranged the transfer with the ceding scheme and the PPP provider directly. But the issue which remained for the investigator was the time taken to complete the process of advice provision, although he didn't think it was fair to presume that Mr L would have obtained a CETV at the level it was guaranteed on 20 September 2019.
- He noted the comment that there appeared to be no sense of urgency from Mr L, but he didn't think it was reasonable to conclude that Mr L would have known the time it should take to complete the process.
- The email which TenetConnect had provided hadn't been issued until after the delay period, and it did suggest a positive view of obtaining a new CETV and Mr L requesting an indicative online value. But he didn't think a lack of, or delay in, reply meant that there was no urgency, and he also said that the reason why the email was delayed was that the adviser was waiting for authorisation to provide transfer advice through TenetConnect.
- The investigator did agree that there were a number of hypothetical outcomes here, but he thought that Mr L would have exhausted the process with TenetConnect's adviser before seeking the assistance of another firm, given the pre-existing relationship between them. As such, his view remained that the process took too long, and he thought his recommendations as set out previously should stand.

The investigator notified both parties that, as agreement hadn't been reached on the matter, it would be referred to an ombudsman to review. Mr L indicated that he would make further

submissions on the points raised by TenetConnect, and the latter submitted some additional points as follows:

- It said it could ask the adviser whether the disagreement over the suitability of the transfer was due to their inexperience of submitting transfer proposals – but it didn't think that this point was in any case relevant.
- It also said that it would have been highly irresponsible for it to simply have signed transfer forms to say that it had provided advice, thereby allowing Mr L to carry out the transfer himself. If it had, it would have rightly been held liable if there was a future complaint.

The matter was passed to me for review and I set out my provisional findings on the complaint as follows:

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

Having done so, as I've said above, I've reached slightly different conclusions to the investigator on some aspects, but with the same overall outcome. I'm issuing this as a provisional decision to provide both parties with the opportunity to comment further.

The suitability of the advice and the "insistent client" request

This is perhaps the key area in which my view differs from that of the investigator. He suggested this was the main issue to consider, and I've also noted that Mr L remains of the firm view that the advice was incorrect – or rather that, whilst defined benefit transfers may be unsuitable for the majority of individuals, his very specific circumstances weren't taken into account here.

I do accept this concern, but a crucial aspect in this case is that Mr L didn't in any case accept the advice given by TenetConnect. He decided to act against it and proceed with the transfer through a different firm.

But the only situation in which I could uphold a complaint on the basis of the advice given was if the complainant accepted that advice, acted upon it, and then it was determined to have been unsuitable. For example, had Mr L accepted that advice and then thought that he had been financially disadvantaged by a recommendation to retain his defined benefits, he could have complained on that basis.

But where the advice is effectively ignored, suitability – or otherwise – really becomes something of a moot point.

Similarly, as set out by the investigator, an advisory business is entitled to decide to not process business as an "insistent client" basis. There are arguably some instances where it might, in the opinion of the business, be so clearly against an individual's best interests to facilitate the transaction, even as an "insistent client". And some defined benefit transfers might fit that bill. The reason for this is that the risks of facilitating such a transaction don't lie just with the client – there may be significant and costly ramifications for the business, even if it considered that it had fulfilled the requirements of the "insistent client" process. If such a complaint was brought to this service, we may disagree that the consumer was truly an insistent client, or alternatively conclude that it was so clearly against the consumer's best interests that the business shouldn't have been transacted by a professional business.

And so, for the reasons given, I wouldn't uphold this complaint on the basis of either the suitability of the advice, nor TenetConnect's decision to not facilitate the transfer on an insistent client basis.

Were there unnecessary delays in the process?

But whatever conclusion was reached by TenetConnect, be it to transfer or to retain his benefits, or indeed to then not proceed on an insistent client basis, this nevertheless needed to be provided to Mr L in a timely fashion, for the obvious reason of there then needing to be the maximum amount of time for the transfer to actually be processed, or alternatively for Mr L to take alternative action if he still wished to proceed.

And as with the investigator, I'm not currently persuaded that this was the case here. I think it's fair to say that, prior to the client agreement being signed on 2 July 2019, there wasn't a particular sense of urgency expressed by either party. Mr L may wish to correct me here, but as far I can tell it was something which Mr L was inclined to achieve, but it didn't need to be achieved quickly for reasons such as, for example, ill health.

But once the client agreement had been signed, the objective was clear, and a means of remuneration for the adviser's services had been established, so things should have moved along at pace. This would certainly have fallen within the auspices of acting within a client's best interests. And a client is entitled to believe that matters are progressing without the need to chase proceedings.

I've noted the timeline provided by TenetConnect for activity on Mr L's case, in responding to the investigator's view. I think it would be useful to set this out, as follows:

*3 July 2019 - Client agreement signed
9 August 2019 - Anti money laundering form completed
9 August 2019 - James Hay SIPP illustration/valuation form generated
24 August 2019 – Mr L was asked to watch a video
4 September 2019 - The adviser told Mr L he was waiting for a CETV.
6 September 2019 - Email from adviser showing CETV had already been requested
6 September 2019 - Meeting held and fact find completed
12 September 2019 - CETV requested (according to the scheme administrators)
30 September 2019 - Fact find completed
4 October 2019 - Fund research carried out
18 October 2019 - SIPP illustration generated
21 October 2019 - Pension statement received
23 October 2019 - Suitability report drafted
23 October 2019 – 25 November 2019 - Advice being file checked and various changes implemented as a result of the file check (further information needed to be requested as a result of this)
25 November 2019 - Final suitability letter drafted and issued to Mr L on 28 November 2019
2 December 2019 – Mr L disputed decision not to transfer
24 December 2019 - Letter from TenetConnect confirming it wouldn't proceed on an insistent client basis
10 January 2020 - Email from TenetConnect's director confirming again that it wouldn't proceed on insistent client basis*

So looking at this timeline more closely, it initially took over a month, from 3 July 2019 until 9 August 2019 for anything to be done beyond the client agreement being signed. The next action was the completion of the money laundering form, but this surely could in any case have been completed at the same time as the client agreement.

There was then a further period of over two weeks between 9 August 2019 and Mr L being asked to watch a video. The adviser then told Mr L on 4 September 2019 that he was waiting for the CETV. But I haven't been able to find actual evidence, beyond the adviser saying that he was awaiting the CETV, as repeated two days later to Mr L, that this had already been requested. If TenetConnect has this, I'd be grateful if it would identify it in the file it's sent us, or re-send it.

The OPS administrators, have, by contrast, confirmed that the request was actually received on 12 September 2019, which was by now over two months after the client agreement had been signed.

Notably, fact finding for Mr L's circumstances and objectives didn't begin until 6 September 2019, again by this stage over two months after the client agreement had been signed. But I would have expected this to be one of the first stages of advice provision to Mr L.

Fact finding was seemingly again then completed after a further intervening period of over three weeks, on 30 September 2019. Fund research and obtaining SIPP illustrations occurred during a further period of over three weeks, up to the initial drafting of the suitability letter on 23 October 2019.

A period of over a month then passed, during which TenetConnect has said that the advice was being checked, and that further information needed to be requested as a result. The suitability report was eventually issued on 28 November 2019. But this was nearly five months after the client agreement had been signed.

My overall view on this process, as with the investigator, is that it took considerably longer than it should. TenetConnect has said that the process of advising on defined benefits transfers isn't straightforward – and I'd agree. Much needs to be taken into account to provide a suitable recommendation. But even if it could reasonably be argued that there was a degree of complexity here which meant that, for example, the period between the initial drafting of the suitability report and its final issue could be justified, there are several examples in the above timeline of significant periods of time with seemingly no activity, or, even if it could be argued that the adviser was at times awaiting other information, no reasonable indication as to why other matters couldn't have been addressed in the interim.

TenetConnect's position is that there was no sense of urgency forthcoming from Mr L. I'm confident Mr L would dispute this, but even if there wasn't, this doesn't mean that the process can be drawn out over an unreasonable amount of time. And the essence of my thinking here is that there's no real justification as to why the process should reasonably have taken as long as it did.

TenetConnect has also said that the later acquisition of the CETV served to improve on its value and that the timing has therefore worked in Mr L's favour, but as the investigator has said, it can't be known as to whether an even better CETV could have been obtained earlier without actually requesting an earlier notional value.

Notwithstanding what I consider to have been unnecessary delays up to this point, it was then the three month guarantee period after receiving the updated CETV on 20 September 2019 which became of crucial importance. The adviser was aware that the CETV was higher, perhaps at an "all-time high", and so even setting aside the usual considerations of processing the transfer advice in a timely manner, there was arguably a further incentive to ensure that Mr L was advised in good time to ensure the transfer was processed, or inform him that it wasn't recommended, so that he could then take alternative action if he wished.

I do think that, given the fact finding, fund research, the SIPP illustration and other pension information which had been garnered up to 21 October 2019, it might reasonably be expected that the suitability report would be drafted rather sooner than 25 November 2019, especially as the clock had effectively been ticking on the CETV since 20 September 2019. Again, if TenetConnect disputes this, I'd be interested in its reasoning as to why this further period was justified.

Mr L rejected the recommendation to not transfer quickly, emailing the adviser on 28 November 2019 and resending this on 2 December 2019. The adviser said he would try to let Mr L know the outcome of the request to be treated as an insistent client before he left the UK on 3 December 2019, but this didn't happen.

TenetConnect had said that it wasn't able to advise Mr L on transfer matters whilst he was outside of the UK, and also that, had Mr L not been abroad, he would have been notified of the outcome of his request to be treated as an insistent client by the end of November 2019. But I'm afraid I've had difficulty understanding this – the suitability report wasn't issued until 25 November 2019, and Mr L rejected this on 28 November 2019 whilst he was still in the UK. And so it seems TenetConnect, by its own confirmation, could have notified Mr L that it was declining his requested to be treated as an insistent client before he left the UK.

It's TenetConnect's further contention that, even if a CETV had been obtained by another firm in late November 2019, no action could have been taken due to Mr L being abroad until January 2020.

But this is where the issue of the earlier delays comes to bear. My view, as with that of the investigator, is that the whole process could, and should, have been finalised much earlier than it was, and had it been, inclusive of a CETV obtained earlier than 20 September 2019, then Mr L would more likely than not have been able to transfer through a different business before he went abroad, or have everything in place for the transfer to happen in his absence.

As such, I agree with the investigator that Mr L's transfer could have occurred much sooner than it did. I think the notion of the CETV being received 57 days earlier than it was is reasonable. But I also think that additional delays should be factored in – and in particular, from my reading of the timeline, I don't think it should have taken a further two months from obtaining the CETV to the production of the suitability report. With appropriate haste, I think this could reasonably have happened after a further month.

And so I think the suitability report should have been issued by 20 August 2019. Had this happened, and Mr L had rejected the recommendation to not transfer, by its own account TenetConnect could have let Mr L know swiftly that it also wouldn't process the transfer on an insistent client basis – so perhaps a further week.

Mr L would then have been able to engage a different advisory firm by 27 August 2019 and begin the process again. I think it's likely that a new CETV would have needed to be requested, which may have been higher or lower than that received on 20 September 2019 – but as with the investigator, this is a matter of establishing what should have happened here on the basis of a reasonable timeline, rather than compensating Mr L for the loss of the CETV provided on 20 September 2019.

In terms of that subsequent timeline, it seems that Mr L met with the new business on 23 January 2020, the new CETV was requested on 5 February 2020 (13 days later), received on 10 February 2020, and the application was submitted to the OPS administrators on 24 April 2020. The administrators accepted the transfer request on 25 April 2020, and after a short delay due to the impact of Covid at the time, the funds were issued on 15 May 2020 and invested in Mr L's SIPP on 25 May 2020 (123 days from the initial meeting).

And so, using the same timeline for events which occurred after Mr L sought assistance with a different firm, my current view is that TenetConnect should establish the CETV which would have been received following a request to the administrators on 9 September 2019, and then establish the notional current value of the SIPP had those funds been received in the SIPP 123 days after the initial meeting - on 30 December 2019 (allowing for the date 123 days later falling on a weekend).

If the current notional value is higher than the actual value, then there is a loss. Ideally, TenetConnect should increase Mr L's pension fund to the identified notional value, as at the date of any subsequent final decision along these lines, taking account of any available tax relief, annual allowance issues and any protections in place.

If such a payment into the SIPP isn't possible, it should instead make the payment of loss to Mr L directly, but with a notional deduction in respect of the income tax which, if left intact for the sake of beneficiaries upon death, those beneficiaries would likely pay on uncrystallised pension funds. I've assumed this to be 20%.

I've also thought carefully about the additional sum of £300 recommended by the investigator in respect of the trouble and upset caused to Mr L by this matter. The proposal above should compensate Mr L for any financial loss caused by the delays, but I do think an additional sum is warranted here for the, mainly, inconvenience Mr L has suffered as a result of what's happened.

I think the process of having to chase matters, and then realising that the amount received by way of the eventual transfer was quite a bit lower than the previous CETV had indicated, will inevitably have been frustrating, and perhaps upsetting, for Mr L. And I think the further sum of £300 is probably about right in respect of the impact this will have had on him."

In response, Mr L said the following:

- In 2018, the adviser suggested meetings in February/March 2019 to finalise the transfer paperwork and it was agreed at those meetings that the best time to submit a CETV request would be July/August 2019. This gave the adviser sufficient time to finalise all the paperwork. It was therefore a planned schedule, which he had no reason to doubt.
- Although the client agreement was signed on 3 July 2019, the actual agreement start date was less than clear as he'd signed a number of documents, including several agreements, between February and July 2019.
- There was a lack of engagement and responses from the adviser between July and September 2019, which was becoming concerning.
- No physical meetings occurred in September 2019 as the information had already been gathered in the preceding months, mostly in February and March 2019. He did exchange emails with the adviser in September 2019 and sent subsequent chaser emails and texts. He began to realise that the adviser was struggling to obtain Tenet's approval for the transfer.
- It was unacceptable that it took until 29 November 2019 to receive the final suitability letter and this was followed by an ongoing refusal to provide more factual information while he was overseas.
- The adviser and Tenet accepted that the CETV was very favourable, but didn't appear to reflect the time sensitive nature of capitalizing on it.

- His main concern was that the delays resulted in him being unable to receive the higher CETV and then receiving one which was over £15,000 lower.

Tenet also made further submissions as follows:

- It provided documentation that the fact find was completed in August 2019 and the case was then submitted to its paraplanning department on 9 August 2019. It wasn't therefore accurate to say that nothing was done until later.
- It was a complicated case and it took some time, but not unreasonably so.
- It also provided the following: an internal email dated 17 December 2019 confirming that the advice to Mr L should be to remain in the scheme and that it wouldn't process the transfer on an insistent client basis; the submission from the adviser to Tenet's paraplanning department on 9 August 2019 asking that it be fast tracked; an email from the adviser to Mr L saying that he had spoken to the scheme about the outstanding CETV on 6 September 2019; the benefits projection sent by the ceding scheme on 10 September 2019; payment being made for the new CETV on 12 September 2019; emails between Mr L and the adviser from 20 September 2019 to 3 October 2019 about the transfer's progress; and emails from 8 November 2019 to 21 November 2019 evidencing chasing being made by the adviser to Tenet's internal review function.

The adviser also submitted further comments, saying the following:

- It wasn't the case that nothing happened on the case for weeks. He said he had submitted the case to Tenet's paraplanning and it took them some time to research and prepare the case. The initial assessment had been to recommend the transfer, but this was subsequently revised to the decision to not recommend, or facilitate, the transfer.
- The date on the fact find referred to in my provisional decision was misleading. This was completed at the time of the initial submission to Tenet's paraplanning department but was updated throughout the process as required whilst "going backwards and forwards" with the internal assessor. The date on the fact find wasn't the date at which the adviser started working on the case.
- The timing of the request for the new CETV was deliberate so as to be in Mr L's interests. Mr L had confirmed that the adviser should start work based on the previous CETV as he didn't think it would have changed much and the CETV was then requested as late as possible so as to provide enough time for advice to be given and the transfer processed before it expired.
- It wouldn't have been sensible to request the "final" CETV straight away as this would have put too much time pressure on completion of the transfer process. There also wasn't a particular rush to complete the transfer, as the adviser said I had pointed out in the provisional decision. At no point were the adviser or Mr L waiting for a CETV to arrive – it wasn't a limiting step in the process.

Tenet then submitted additional internal emails it had had with its paraplanning department, in which it noted that the case was first submitted for assessment on 9 August 2019, but no

fact finds were provided. Tenet asked whether it was right in thinking that “he” (presumably the adviser) didn’t submit these until several months later.

The paraplanning department said that it didn’t think this was the issue, and that the case had been submitted for assessment before the CETV had been obtained. And this would explain why there had been no rush to upload the fact find.

Tenet enquired as to whether the whole process was reliant on the CETV and that was what the paraplanning team was waiting for – which the paraplanning department confirmed was the case and that there was therefore no point in him submitting the case until October 2019.

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.

At the outset, I’d like to say that I’m grateful for the additional research that Tenet has undertaken into what happened here and for the further comments from both parties. I also think it’s worth pointing out that it seems that Tenet, and in particular its appointed representative, did try to assist Mr L with his transfer request and I’ve noted the content of emails where Mr L and the adviser undoubtedly enjoyed a constructive and friendly relationship.

Unfortunately, however, even with the best of intentions, things can sometimes go awry, as remains my view in this case.

To firstly address the submission relating to the point at which the factfinding was complete, I acknowledge the submission from the adviser to the paraplanning department dated 9 August 2019, and so I accept that this was started earlier than I’d previously believed to be the case, and seems to have coincided with the anti-money laundering form also being completed.

But that said, the same point as made in my provisional decision applies here, as to why it would reasonably have taken over a month for the fact finding and other forms to be (provisionally) completed. Such tasks can usually be completed within a few days, subject perhaps to additional information being needed from third parties as to, for example, other assets held. But I haven’t seen any evidence that there were prolonged waiting periods where outstanding information was preventing the fact finding from being completed, and the initial proposal then being submitted to Tenet.

And the fact finding then seemed to continue beyond receipt of the CETV and wasn’t fully complete until 30 September 2019. This may well have been due to the “backwards and forwards” between the adviser and the paraplanning department, but it nevertheless meant further delays for Mr L.

It was – and remains – my view that there may not have been the specifically articulated sense of urgency from Mr L before the client agreement was signed, but I do also still think that beyond that point, things should have moved along more quickly than they did.

I’ve also noted the further comments relating to the matter of the revised CETV, but I’m afraid I don’t think they assist Tenet here. On the one hand, it’s been said by the adviser that the CETV wasn’t a crucial step in the process, and that work was being undertaken on the basis of the previous CETV, but on the other it’s been said by the paraplanning department that there was no point in uploading the fact find so that assessment could begin until the CETV was received.

So there seems to be a disconnect here between the adviser and Tenet on their respective understanding of the importance of the CETV – and its timing. And if I'm to accept the adviser's take on this, then it might be expected that fact finding would have taken place before requesting the CETV, and then that the assessment would proceed on the requested fast track basis. Tenet has effectively said that the assessment couldn't be undertaken until the CETV was received, which makes sense as it would be needed for a suitability report. But then it makes just as much sense that the CETV should therefore have been obtained at an earlier stage – as soon as the fact finding was complete, or whilst it was being undertaken - so that the paraplanning team could then undertake its assessment of suitability, taking into account the CETV and Mr L's circumstances/objectives.

And if the fact finding had been completed earlier, as set out above, the CETV could have been requested at the same time, and the paraplanning assessment could have begun on the requested fast track basis. There would obviously have been no advantage in delaying a request for the CETV if the paraplanning department couldn't begin an assessment without it.

The only explanation I can think of as to why the CETV wouldn't be requested at the outset is if it was reasonably expected that the process couldn't for whatever reason be completed within the three month expiry period. But then it might reasonably be assumed that Mr L's expectations would be managed accordingly, and if Tenet thought that it couldn't meet that timescale, Mr L would have had the opportunity of seeking assistance elsewhere.

I've noted the reference to the CETV already having been requested in the email between the adviser and Mr L on 6 September 2019, but I still haven't seen evidence of when this was first requested, and I do need to take into account the ceding scheme's position that the CETV wasn't requested until 12 September 2019 – over two months after the client agreement had been signed.

And there then remains the matter of the additional delay between obtaining the CETV and the production of the suitability report, which I still think should have taken a maximum of a month, rather than double this amount of time.

So overall, I haven't seen anything new which makes me think my view should change on this. My opinion remains that things should have happened more quickly than they did, and I think the suggestion of some confusion between the adviser and Tenet's paraplanning department as to the proper sequence of fact finding, case submission, CETV acquisition and subsequent assessment may have contributed to this.

I do accept that this was a complex case, and it required serious consideration, but I nevertheless still think that the timescale as set out in the provisional decision would be fair, reasonable and appropriate here. And to reiterate, whilst I'm mindful that Mr L's main concern is the reduction in the CETV, this isn't a case of maximising the potential CETV value for him. By setting out a hypothetical timeline as to how I think matters should have progressed, including the point at which the new CETV should have been requested, that revised notional value can't actually be known until it's obtained from the ceding scheme administrators. And it may be more or less, or the same, as that which was ultimately received by Mr L. But he would, of course, also have had the opportunity to invest it sooner, and as I concluded in the provisional decision, the investments Mr L later made could have been made by 30 December 2019.

On that particular note, I think I should manage Mr L's expectations in terms of the effects of the reaction in financial markets to the emerging pandemic in February and March 2020 on any uplift he may have experienced in receiving an earlier CETV. This may serve to mitigate any loss quite significantly, given that Mr L would have invested the transfer proceeds at

likely lower unit prices in May 2020.

I'm nevertheless satisfied that bringing the timeline forward, as was proposed in the provisional decision, is the right course of action here.

Putting things right

As my view on the matter remains the same, the same redress methodology as set out in the provisional decision should be applied by TenetConnect Limited, and paid to Mr L's pension fund or if not possible, directly to him with the appropriate notional tax deduction.

I'm also satisfied that TenetConnect Limited should pay the additional sum of £300 to Mr L for the reasons previously set out.

My final decision

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 1 April 2022.

Philip Miller
Ombudsman