

The complaint

Mr B complains that London & Colonial Services Limited (L&C) caused unnecessary delays when he requested it transfer funds held within his Self-Invested Personal Pension (SIPP) to another provider. And these delays caused him a financial loss.

In bringing this complaint, Mr B is represented by a third party, but for simplicity within this decision I'll refer to all actions and correspondence as being completed by Mr B himself.

What happened

Mr B held a SIPP with L&C. In November 2019 Mr B instructed L&C to transfer two investment funds he held within his SIPP, amounting to approximately £45,000 to a SIPP held with Royal London. These two funds were managed by businesses I'll refer to as [X] and [Y]. The completed discharge forms were received by L&C on 6 December 2019.

On 24 January 2020 L&C sent withdrawal instructions to [X] and [Y].

On 7 February 2020 [X] sent a closing statement to L&C confirming it had transferred the fund value, £21,486.02 to L&C's designated account. (These funds were received by L&C on 12 February 2020).

On 10 February 2020 [Y] wrote to L&C asking for further identification verification as it was unable to verify the signatures on the transfer instructions.

On 2 May 2020 L&C emailed [Y] to confirm if it had received the withdrawal request it had sent on 24 January 2020.

On 18 May 2020 Mr B complained to L&C about the fact that the transfer had still not been completed.

On 9 July 2020 L&C emailed [Y] again and attached a copy of the withdrawal request. [Y] responded the following day saying it couldn't verify the signatures on the instruction, and again asked for an updated signatory list to be provided.

On 13 July 2020 L&C issued its final response to Mr B's complaint. It agreed that it had caused a delay of 30 days to the transfer, and said it would carry out a loss calculation. But Mr B wasn't happy with this response, so referred his complaint to our service.

On 19 September 2020 L&C asked [Y] for an update on the withdrawal. [Y] replied two days later to say it had already responded on 10 July 2020.

L&C sent [Y] the required updated signatory list on 22 September 2020 and the funds were received from [Y] three days later. L&C transferred the value of the funds from [X] and [Y] to Mr B's new SIPP on 28 September 2020.

When our Investigator considered the complaint and the timeline of events, he thought L&C were responsible for more than 30 days of delays. He thought that [X] and [Y] had responded in a timely manner to all the requests from L&C, and where [Y] had asked for additional information, this request was reasonable in the circumstances. He thought that L&C ought to have been in a position to complete Mr B's transfer instructions on 27 February 2020. So as it wasn't completed until 28 September 2020, this was considerably more than the 30 days delay L&C had said it had caused.

Given the Investigator thought L&C were responsible for delays in the transfer, he thought Mr B may have suffered a financial loss while his funds were not invested in his new SIPP. So he thought L&C should carry out a loss calculation, and set out the methodology that he considered fair in the circumstances. He also thought L&C should pay Mr B an additional £200 for the distress and inconvenience he'd been caused.

L&C didn't respond to the Investigator's view, so the complaint has come 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.

And having done so, I agree with the findings of the Investigator, for broadly the same reasons. I'll explain.

L&C has agreed that it caused unnecessary delays in facilitating the transfer of Mr B's funds to his new SIPP. But what is in dispute is the extent of these delays, and the impact these may have had on both Mr B personally, and the value of his pension funds.

L&C has said it felt it was responsible for a delay of 30 days in the process. But I don't agree. Having considered the timeline of events, I am satisfied that L&C should've most likely been in a position to finally action the transfer to Mr B's new SIPP by 27 February 2020.

There were two funds within Mr B SIPP that he had requested to be transferred to his new Royal London SIPP. These were held with businesses [X] and [Y]. I can see from the records that the requests made by L&C to both [X] and [Y] were actioned and responded to in a timely manner. [Y] required signature verification, but this is a reasonable request as it was unable to confirm the authenticity of the request, and it took this step to protect Mr B's funds. But it was L&C who didn't respond to this request when it was made by [Y]. And it wasn't [Y]'s responsibility to chase this up – it was something L&C had to do in order to facilitate Mr B's request.

I note that L&C has said that it hadn't received post sent to it by both [X] and [Y] that it said it needed. But I've seen that the letters sent were sent and addressed to L&C at the correct street and town. And although the post code used was wrong, it was only the last two digits which were incorrect. So I think, on balance, that it is more likely than not that the letters were received by L&C.

The funds held by [X] were transferred to L&C on 12 February 2020. So the wait for the funds from [Y] was all that was required for the transaction to be completed. The significant delay was caused by L&C not responding to the signature verification request made by [Y] which had been made on 10 February 2020. And I can see that when this was eventually responded to on 22 September 2020, [Y] transferred the funds to L&C within three days.

So, allowing for a reasonable period of five working days to acknowledge and action requests, I'm satisfied that had it acted in a timely manner L&C should've been in a position to finalise the transfer of Mr B's funds into his new SIPP by 27 February 2020. And allowing for five working days from this point, I think it is reasonable to conclude that the funds would have been available for investment in Mr B's new SIPP on 6 March 2020.

I cannot know for certain what investment choice Mr B would've made within his new SIPP had his funds been available in March 2020. But when he was able to access them in September 2020, he invested in the Governed Portfolio 7 fund. And I think it is most likely he would have done this by 6 March 2020 had he been able to.

Putting things right

In order to put Mr B back as closely as possible in the position he would've been in had the delays not occurred, I require L&C to undertake a loss calculation as set out below.

Fair compensation

I take the view that Mr B would have invested his funds into the Governed Portfolio 7 earlier than he was actually able to do. I'm satisfied that what I've set out below is fair and reasonable and most likely reflective of his investment intentions when he requested the transfer of his funds.

What must L&C do?

To compensate Mr B fairly, L&C must:

- Compare the performance of Mr B's investment with that of the benchmark shown below. If the actual value is greater than the fair value, no compensation is payable.

If the fair value is greater than the actual value there is a loss and compensation is payable.
- L&C should pay into Mr B'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 L&C is unable to pay the total amount into Mr B'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 B won't be able to reclaim any of the reduction after compensation is paid.

- The *notional* allowance should be calculated using Mr B's actual or expected marginal rate of tax at his selected retirement age. For example, if Mr B 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 B would have been able to take a tax free lump sum, the reduction should be applied to 75% of the compensation.
- Pay to Mr B £200 for the distress and inconvenience caused by the delays in the transfer process.

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

Portfolio name	Status	Benchmark	From ("start date")	To ("end date")	Additional interest
Royal London SIPP	Still exists and liquid	Governed Portfolio 7	6 March 2020	Date of settlement	Not applicable

Actual value

This means the actual amount payable from the investment at the end date.

Fair value

This is what the investment would have been worth at the end date had it produced a return using the benchmark.

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

Any withdrawal from Mr B's Royal London SIPP should be deducted from the fair value calculation at the point it was actually paid so it ceases to accrue any return in the calculation from that point on. If there have been a large number of regular payments, to keep the calculations simpler it is acceptable to total all those payments and deduct that figure at the end to determine the fair value instead of deducting periodically.

Why is this remedy suitable?

I've decided on this method of compensation because Mr B would have most likely invested in the Governed Portfolio 7 sooner, had the delays not occurred.

My final decision

I uphold the complaint. My decision is that London & Colonial Services Limited should pay the amount calculated as set out above.

London & Colonial Services Limited should provide details of its calculation to Mr B in a clear, simple format.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 23 November 2022.

Chris Riggs
Ombudsman