

## **The complaint**

Mr P complains that Standard Life Assurance Limited (SLAL) took too long to arrange the switch of his pension to another provider. He says this led to a financial loss.

It should be noted that Mr P's adviser also asked this service to consider his own complaint about the time he'd spent chasing SLAL on Mr P's behalf. SLAL told this service that Mr P's adviser hadn't asked them to consider his complaint. Therefore they didn't expect us to consider his request as part of our investigation. But they said that Mr P's adviser could make a claim for work of an exceptional nature in accordance with their intermediary terms of business agreement if he wanted to.

## **What happened**

Mr P wanted to switch his personal pension from SLAL to another provider – provider A.

On 5 August 2020, Mr P's financial adviser asked SLAL to sell his assets to cash and send the funds to provider A. But as a property fund couldn't be encashed, they asked for that fund to be transferred in-specie.

Mr P's financial adviser said that it took until 3 November 2020 for the in-specie fund to be transferred to provider A. And that the other funds were sold to cash on 14 October 2020, but were not moved to provider A until 4 December 2020.

Mr P complained to SLAL through his financial adviser in January 2021. He felt he'd experienced very poor customer service. And that the transfer had taken too long, causing him to be out of the market for 51 days. His adviser also complained that he'd spent more time than usual to get the transfer to complete. So he felt he should be reimbursed for the additional time he felt that had taken.

SLAL issued their final response to the complaint on 16 March 2021. They said they aimed to process instructions as soon as possible. But that they'd experienced higher than usual work volumes which meant they'd not been able to work as quickly as they would've liked. They offered £250 compensation for the service they'd provided in relation to the transfer request. And said that they always worked on instructions in the order that they received them to ensure that they treated customers fairly. They acknowledged that they could've taken action on the transfer request sooner on more than one occasion. But felt that Mr P could've sold his funds to cash at a later date to help to mitigate any potential financial losses from being out of the market. They also said that in-specie transfers could be complex and lengthy, and that they took between three to six months to complete.

SLAL said that they hadn't received the 4 August 2020 letter provider A said they'd sent. And that they'd only been able to initiate the transfer after they'd received the scanned email instruction. They also said that they always issued cash last, following the completion of re-registration. And they explained why they did this. They said they couldn't comment on why provider A had said that they wouldn't send over re-registration details until they had placed the relevant sells on the account for the cash part of the transfer. They acknowledged that this had led to Mr P remaining in cash for some time before re-registration had taken place.

and they could complete the transfer in full. And suggested he could ask provider A for an explanation.

Mr P made the following further points to SLAL:

- He felt they'd acknowledged that the service they'd provided was repeatedly outside of service levels.
- He felt that they'd unreasonably denied receiving provider A's initial transfer request. And that they'd tried to shift blame to provider A. He felt that provider A wanted to acquire his funds as quickly as possible. And that the in-specie transfer of a single fund couldn't reasonably have led to the catalogue of poor service he'd received overall.
- He felt that the £250 compensation SLAL had offered was derisory and condescending.
- He didn't feel that SLAL had addressed his complaint that he'd been out of the market for longer than he should've been, and therefore financially disadvantaged. And wanted SLAL to put him back to the financial position he should've been in had the delays not occurred.

SLAL considered Mr P's further points. They still felt that they'd fairly addressed his complaint in their final response. They acknowledged that Mr P felt he'd been put out of the market by selling down funds. But said that they'd explained in their 10 September 2020 email to provider A that the property fund was suspended and therefore had to be transferred in-specie. And they'd confirmed at this time that they would send any residual cash on completion of the re-registration of the property fund. And that there may be a period of time where Mr P would be in cash. They said their usual process was to place sells on completion of the re-registration to ensure clients weren't out of the market longer than required. But provider A's process that had prevented this.

Unhappy, Mr P brought his complaint to this service in April 2021 through his financial adviser.

Our investigator felt that the complaint should be upheld. He said he couldn't know exactly when the switch should've concluded. But he felt that on balance it would've concluded earlier than it did if SLAL hadn't made a number of errors. He felt there were four periods of time when SLAL had delayed the transfer:

1. When SLAL said they hadn't received the initial request from provider A, which he felt had been sent to the correct address. He felt this had caused a delay of 10 days.
2. When SLAL replied to provider A's 19 August 2020 email on 10 September 2020 to request what they said was outstanding information. He said if he used SLAL's stated service level of 10 working days, they should've replied by 3 September 2020 at the latest. So he felt this had caused a further 5 days of delay.
3. When provider A had asked for a revised valuation on 29 September 2020, which SLAL provided 10 working days later. He acknowledged that SLAL said they had a 10-working day service level. But felt that Mr P's case should've been treated as a priority under the circumstances. And that the valuation should've been provided within 5 working days. He therefore felt that this had caused another 5 days of delay.
4. Once the re-registration had settled on 2 November 2020, the transfer of the cash

balance wasn't sent until 4 December 2020. Our investigator felt this should've been done earlier. And that it would've been reasonable for the transfer to have been carried out on 11 November 2020 instead of 4 December 2020. He said this caused another 17 days of delay.

If these delays hadn't happened, our investigator felt that the cash would've notionally transferred on 14 October 2020, rather than 4 December 2020.

To put things right, our investigator felt that SLAL should take the following steps:

- Compare the actual cash amount transferred on 4 December 2020, to the notional cash sum which would've been transferred on 14 October 2020, plus the investment return which could've been achieved had that amount been invested throughout the period using the FTSE UK Private Investors Income Total Return Index. If there is a loss as at 4 December 2020, then that amount should be adjusted, according to the actual investment returns achieved in Mr P's personal pension from 5 December 2020 to the date of settlement. If there is a loss, it should be paid into Mr P's new pension plan.
- Pay Mr P £250 for the distress and inconvenience caused.

SLAL didn't fully agree with our investigator. They made the following points:

- They felt they'd completed the re-registration in a timely manner from when they'd received the acceptance from provider A. But said that the re-registration had completed on 2 November 2020, but it had taken them until 4 December 2020 to send the cash, despite being chased by several parties in between. They said they'd received formal notification of the completion of the re-registration on 3 November 2020. So assuming that 5 working days was a reasonable time, the cash should've been sent 10 November 2020, rather than 4 December 2020. They accepted that they may've caused a loss of investment over the 18 working days in this period. And said they should ensure that the delay hadn't financially disadvantaged Mr P.
- They agreed they should pay £250 for the distress and inconvenience they'd caused.
- They didn't agree that they'd received the request to transfer on 5 August 2020. So they didn't agree that the transfer process should've started at that point. They said that the application hadn't been sent to the correct address, which they felt was provider A's error. And that they had actually received it on 19 August 2020.
- They felt that provider A had caused a second valuation to be requested and sent. but that there was no reason the original valuation they'd sent in September 2020 couldn't have been used. Therefore they felt that the delay from 10 September 2020 to 19 October 2020 had been caused by provider A.
- They didn't agree that they should've treated the request as a priority due to Mr P and his adviser chasing its progress.

Mr P made the following points in response to SLALs comments:

- He didn't agree that it was reasonable for SLAL to say they hadn't received the transfer request, as he felt that post would be regularly moved between the address used and the correct address.
- He felt that SLAL were trying to delay the resolution of the complaint.

Our investigator considered the new comments from both parties. But it didn't change his view.

As agreement couldn't be reached, the complaint came to me for a review.

I issued my provisional decision on 27 September 2022. It said:

*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, I intend to uphold it. I agree with our investigator that SLAL did cause some delays. But I don't agree that they caused all the delays he felt they'd caused. I'll explain the reasons for my decision.*

#### *Timeline*

*I've set out the timeline of what I consider to be the most relevant correspondence relating to the complaint:*

*4 August 2020 - provider A sent the transfer application to SLAL by post. The application included the instruction to re-register the property fund and to send the cash value of the other funds to provider A. SLAL said they didn't receive this letter.*

*18 August 2020 - Mr P's adviser contacted SLAL about the transfer.*

*19 August 2020 – Provider A re-sent the transfer application by email to SLAL.*

*24 August 2020 to 3 September 2020: Provider A chased SLAL for progress on the transfer application.*

*9 September 2020: Provider A spoke to SLAL. They were told it may not be possible for them to accept email copies of the instruction.*

*10 September 2020: SLAL emailed provider A, copying Mr P's adviser, to say that they still didn't have a signed declaration from Mr P to enable the transfer to proceed. They provided a valuation for the property fund which was to be re-registered. And confirmed that the cash would only be issued to provider A after the re-registration was complete. SLAL said that, for the in-specie transfer to go ahead, they would need provider A: "to complete a full asset acceptability check and confirm that you can accept the assets". I understand that Mr P's adviser forwarded the requested customer declaration later the same day.*

*16 September 2020: Mr P's adviser called provider A to tell them that SLAL needed the signed provider A declaration to progress the transfer.*

*17 September 2020: Provider A emailed SLAL to ask them which declaration was required.*

*21 September 2020: After a call with provider A, SLAL confirmed by email that they'd received the declaration they'd requested on 10 September 2020. They said that they were still waiting for confirmation that provider A could accept the property fund. And that they also needed the scheme details so that they could process the transfer.*

*22, 23 September 2020: Provider A's notes show that they were still unclear what SLAL needed from them.*

*28 September 2020: Mr P's IFA requested that SLAL placed the sells so that the cash transfers could be made. He said: "I have explained that provider A will not provide the*

*requested details without the sells being placed which puts us at an impasse if SLAL will not place sells without details from provider A". He also noted that he was unable to place the sells himself.*

*29 September 2020: Provider A emailed SLAL to tell them that Mr P's adviser had placed sales on the account. They asked SLAL to provide an updated valuation so that they could send their acceptance. SLAL acknowledged the request the same day.*

*12 October 2020: SLAL sent the requested valuation to provider A. And apologised for the delayed response.*

*14 October 2020: SLAL confirmed to provider A that the sale of Mr P's funds had been placed. But I understand that they were still waiting for the re-registration details from provider A before they could complete the transfer. SLAL later stated that the valuation they'd sent again on 12 October 2020 at provider A's request, mirrored the same asset allocation as the valuation they'd sent on 10 September 2020. They said that this showed there was no need for them to send a second valuation.*

*19 October 2020: Provider A sent SLAL details of the new nominee and their acceptance of the re-registration.*

*21 October 2020: SLAL acknowledged the acceptance.*

*2 November 2020: The property fund was re-registered to the new nominee.*

*4 December 2020: SLAL confirmed that the re-registration had taken place and they had transferred the cash balance to Nucleus.*

*I first considered if SLAL caused any delays.*

*Did SLAL cause any delays?*

*I agree with our investigator that there were four periods when it's possible the transfer process could've gone more quickly. These are:*

- 1. The period between 5 August 2020 to 19 August 2020, when SLAL said they hadn't received the initial request from provider A.*
- 2. The period between 3 September 2020, by when our investigator felt SLAL should've replied to provider A's 19 August 2020 email, and 10 September 2020, when they did.*
- 3. When provider A had asked for a revised valuation on 29 September 2020, which SLAL provided 10 working days later. SLAL said they had a 10-working day service level. But our investigator felt that Mr P's case should've been treated as a priority under the circumstances. And that the valuation should've been provided within 5 working days. He therefore felt that this had caused another 5 days of delay.*
- 4. The period between the re-registration settling on 2 November 2020 and the transfer of the cash balance on 4 December 2020. Our investigator felt SLAL were responsible for a 17 day of delay here.*

*If these delays hadn't happened, our investigator felt that the cash would've notionally transferred on 14 October 2020, rather than 4 December 2020.*

*I considered whether I felt SLAL should fairly and reasonably be held responsible for each of the delays above.*

*Our investigator felt that the initial request to transfer had been sent to the correct address. He said this because the covering letter of 4 August 2020 was sent to an SLAL office.*

*Mr P said he'd expect SLAL to have a process in place to have mail forwarded to the correct office.*

*SLAL didn't agree that they'd received the request to transfer on 5 August 2020, as our investigator had felt. They said that the application had been sent to the wrong address, which was provider A's error. They said that provider A had a duty of care to ensure that the transfer documentation was sent to the correct address. They said that although the office the letter had been sent to was an SLAL office, it's focus was on a completely different entity to SLAL. And that the letter couldn't easily have been passed to the correct office, as it would've been difficult for the person opening the letter to know who they should send it on to. So they felt that even if they had received the request, it was very unlikely that it would've been quickly passed to the relevant team. They also said that during the time of the request, staff were working remotely working. They said that at the time, all of their offices in Scotland were closed. So this would've seriously hindered any investigation to find the correct team for the transfer request to be picked up and progressed.*

*SLAL also said that it took provider A until 18 August 2020 to call them to find out if they had received the application. And it was at this point that they told provider A the email address they should've used. They felt that if either provider A, or Mr P's adviser, had made this enquiry before sending the application, they would've received the initial request. They also said that provider A hadn't provided any evidence that they posted the application on 4 August 2020.*

*From what I've seen, I don't agree with our investigator that SLAL are responsible for the delay caused by the initial request being sent to the wrong address. I consider that, on balance of probabilities, SLAL didn't receive it, due to it being sent to the wrong office address. I say this because I agree with SLAL that the problem could've been avoided before the application was sent in if the correct address had been confirmed.*

*Our investigator felt that SLAL were responsible for a 5 working day delay between 3 September 2020, by when he felt SLAL should've replied to provider A's 19 August 2020 email, and 10 September 2020, when they actually did.*

*Provider A re-sent Mr P's application forms on 19 August 2020. And chased SLAL on 28 August 2020. But SLAL only emailed provider A on 10 September 2020.*

*From what I've seen, this was an important email. And Mr P's adviser had been chasing SLAL for progress on his transfer. So I agree with our investigator that SLAL should've taken steps to ensure they met their service level of 10 working days here. I acknowledge that SLAL were experiencing high volumes of work and their staff were working from home, but I agree that they caused a 5-day delay here.*

*Our investigator also felt that SLAL were responsible for a 5 working day delay after provider A had asked for a revised valuation on 29 September 2020. SLAL provided this 10 working days later, which met their 10-working day service level. But apologised for the delay in responding. Our investigator felt that Mr P's case should've been treated as a priority under the circumstances. And therefore felt that the valuation should've been provided within 5 days.*

SLAL didn't agree. They felt provider A didn't need a second valuation. And that provider A could've provided their acceptance to the assets listed in the valuation statement SLAL had sent on 10 September 2020. They said provider A had asked for an updated statement because they'd believed Mr P's adviser had already placed sells to cash, which would've changed the holdings from the valuation previously sent. SLAL said there was no reason the September 2020 valuation couldn't have been used as there'd been no sells. So the new valuation still detailed the same assets. SLAL felt that provider A was therefore responsible for any delay caused by the request for a second valuation.

SLAL also said that if sells had been required, it wouldn't have been possible to provide the new valuation within 5 days. They said they would've had to wait until the sells had settled, which could take up to 6 working days, before any valuation could've been issued.

From what I've seen, I don't agree with our investigator that SLAL are responsible for a delay issuing the second valuation. Firstly, I don't consider they did issue it late, as it was issued in line with the 10-working day service level. And secondly, I agree with SLAL that there was no need for provider A to request a second valuation. Therefore I don't agree that SLAL caused a 5-day delay here.

Our investigator felt that SLAL had caused 17 days of delay during the period between the re-registration settling on 2 November 2020 and the transfer of the cash balance on 4 December 2020.

SLAL agreed that they'd caused a delay here. They said they'd received formal notification of the completion of the re-registration on 3 November 2020. And if they assumed that 5 working days was a reasonable time, the cash should've been sent on 10 November 2020, rather than 4 December 2020. So they accepted that they'd caused an 18-day delay here.

I agree with SLAL that they caused an 18-day delay here.

Taking into account the 5 working day delay I'm persuaded SLAL caused between 3 September 2020 and 10 September 2020, and the 18 working day delay SLAL have acknowledged between 10 November 2020 and 4 December 2020, I consider that the cash should've notionally transferred 23 working days earlier. This is 3 November 2020, rather than 4 December 2020.

I next considered whether SLAL should've treated Mr P as a priority after the initial issues with his transfer. I did this after I'd assessed which delays I felt SLAL were responsible for, as my decision on this could potentially impact the amount of delay that should be attributed to SLAL.

Should SLAL have treated Mr P as a priority?

Mr P feels that his transfer should've been prioritized given how long it had taken. And how often he and his adviser had chased SLAL for progress.

Our investigator also felt that SLAL should've prioritized Mr P's case under the circumstances. He felt that although Mr P's case shouldn't have been prioritized because of his complaint, it was reasonable to prioritize – as part of the remedy - when errors or delays have occurred.

SLAL didn't agree that they should've treated Mr P's request as a priority simply because he and his adviser had chased its progress, or because of a complaint. They felt this wasn't treating all their customers fairly.

*From what I've seen, SLAL caused a 5-day delay when they didn't reply to provider A's 19 August 2020 email within their 10-day service level. And they also caused an 18-day delay at the end of the process.*

*Having carefully considered what each party has said, I'm not of the view that SLAL had any obligation to prioritize Mr P's request. I say this because I've seen no evidence that they made an error. And while I acknowledge that they did cause delays during and at the end of the process, I consider that the delay they caused near the start of the process was relatively short. Therefore I don't consider that SLAL had any obligation to try to process Mr P's request more quickly than those of their other customers. I also agree with SLAL that I've seen no evidence that if they'd chased the other parties involved in the re-registration process it would've been completed sooner.*

### **Distress and inconvenience**

*Mr P said that he had spent time contacting SLAL to chase his transfer and had been highly inconvenienced. He felt he should be compensated for this.*

*SLAL offered Mr P £250 for the inconvenience and upset caused by them failing to meet their expected service level of 10 working days. They also apologised for providing Mr P with conflicting information. Our investigator felt that SLAL's was in line with what he'd expect to see in these circumstances.*

*I agree with our investigator that this level of compensation for distress and inconvenience is reasonable for the inconvenience and upset SLAL caused Mr P.*

### **Responses to my provisional decision**

SLAL agreed with my provisional decision.

Mr P didn't respond to my provisional 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.

No new information has come to light to change my opinion. So I remain of the view I set out in my provisional decision. And I uphold the complaint.

SLAL must compensate Mr P as detailed below.

### **Putting things right**

#### **Fair compensation**

My aim is that Mr P should be put as closely as possible into the position he would probably now be in if SLAL hadn't delayed the transfer. I understand that Mr P's new pension investments are managed by a discretionary fund manager.

It's not possible to say precisely what Mr P would've done had he invested 23 working days sooner than he actually did, but I'm satisfied that what I've set out below is fair and reasonable given Mr P's circumstances and objectives when he invested.

### **What must SLAL do?**



To compensate Mr P fairly, SLAL must:

- Compare the actual cash amount transferred on 4 December 2020, to the notional cash sum which would've been transferred on 3 November 2020, plus the investment return which could've been achieved had that amount been invested throughout the period using the FTSE UK Private Investors Income Total Return Index. This index reflects a broad asset allocation covering equities, fixed income, cash, property and other investments. I understand this is broadly in line with Mr P's attitude to risk.
- If the actual value is greater than the notional value, no compensation is payable.

If the notional value is greater than the actual value there is a loss and compensation is payable.

- If there is a loss as at 4 December 2020, SLAL should adjust the loss, from 5 December 2020 to the date of my final decision, based on the actual performance of Mr P's pension plan with provider A. Mr P will need to provide the required information to allow SLAL to carry out the loss assessment.
- If there is a loss, SLAL should pay into Mr P's pension plan to increase its value by the amount of the compensation. 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 SLAL is unable to pay the compensation into Mr P'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 compensation 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 P won't be able to reclaim any of the reduction after compensation is paid.
- The notional allowance should be calculated using Mr P's actual or expected marginal rate of tax at his selected retirement age.
- It's reasonable to assume that Mr P is likely to be a basic rate taxpayer at the selected retirement age, so the reduction would equal 20%. However, if Mr P would have been able to take a tax-free lump sum, the reduction should be applied to 75% of the compensation, resulting in an overall reduction of 15%.
- Pay Mr P £250 for the distress and inconvenience caused.

### **Why is this remedy suitable?**

I've chosen this method of compensation because:

- Mr P wanted Capital growth and was willing to accept some investment risk.
- The FTSE UK Private Investors Income total return index (prior to 1 March 2017, the FTSE WMA Stock Market Income total return index) is made up of a range of indices with different asset classes, mainly UK equities and government bonds. It's a fair measure for someone who was prepared to take some risk to get a higher return.

- Although it is called income index, the mix and diversification provided within the index is close enough to allow me to use it as a reasonable measure of comparison given Mr P's circumstances and risk attitude.

**My final decision**

For the reasons given above, I uphold this complaint. Standard Life Assurance Limited should pay the compensation detailed above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 24 November 2022.

Jo Occleshaw  
**Ombudsman**