DRN-3998638

The complaint

Mr S complains about delay by Standard Life Assurance Limited (SL) in making an in-specie transfer of his pension investments.

What happened

Mr S said he applied for a transfer in June 2020 but it was not completed until early March 2021. He said the delays were severe and unacceptable. There had been a lack of communication which meant it took months not weeks to complete the re-registration of the assets with the new provider. There were large cash re-registrations with no reference to Mr S which meant the cash could not be invested. SL should not have accepted this cash amount as it meant it remained uninvested for an extensive period of time. SL also said it couldn't match cash due to its process but then did exactly that in January 2021 despite an additional fund not having been matched. This suggested the cash could have been matched earlier than it was. The process had been distressing due to the long and arduous timeframe.

SL said that whilst the transfer had taken longer than it would have liked, the delays with investing the client's cash, which formed part of the transfer, had not been as a result of any error made by SL. It received the transfer request on 25 June but couldn't send a valid transfer request until 7 August due to errors on the new business paperwork submitted by the IFA.

It then didn't receive an accurate valuation from the ceding scheme (which is a required part of the process) until 6 October - at which point it was able to provide its acceptance and re-registration details in order for the transfer to proceed. The ceding scheme didn't start to arrange the transfer of assets until 3 November. All assets except one were completed by 27 November and at this point SL chased the ceding scheme to check on the progress of the final fund.

The remaining fund required it to send an acceptance to the fund manager (not typical for this type of transfer), but it couldn't do this until the ceding scheme provided it with their re-registration details. SL received these on 14 December and the asset was completed on 29 December.

In the complaint, the IFA had said there was a consistent lack of useful communication or urgency from SL to ensure swift re- registration. SL said it had provided the information required to the ceding scheme within expected timescales at each point and also chased them at appropriate intervals. SL couldn't influence or control the ceding scheme or the fund managers timescales.

When it sends a transfer request to a scheme, it includes the following notice:

'*Please DO NOT send the cash prior to all assets being re-registered as we will be unable to accept these'.*

SL received the relevant transfer information required from the ceding scheme on 13

January and applied the cash the same day. The IFA was unhappy the cash was not applied to the plan until this date, but SL said it made it clear that this would happen. HMRC rules mean pension transfers must be like for like. For in specie, this means it needs all the cash, assets and pension transfer statements before it can apply the full transfer.

It didn't request the monies from the ceding scheme and made it clear that monies couldn't be applied until the transfer was completed, so it couldn't accept responsibility for the monies not being invested sooner. It could have sent the monies back to the ceding scheme if requested, but neither the scheme nor financial adviser instructed this to happen.

Mr S requested that the ceding scheme send the cash to SL before the transfer was complete but neither Mr S nor the IFA at any point contacted SL to ensure that it could invest this at that time.

There was an issue where SL accepted a fund which it couldn't actually hold on the platform. The asset was transferred back to the ceding scheme at the request of the IFA. Whilst this shouldn't have happened and it acknowledged this was an oversight on its part, the fund remained invested and the return of the assets was done after the transfer was completed, so didn't cause any issues/delays with the transfer so didn't cause any loss.

The cash remained out of the market longer than anticipated due to funds being disinvested and transferred too soon. Had its process been followed, funds could have been sold to cash and transferred at the last possible moment to avoid exposure. It's for this reason it didn't uphold the complaint.

My provisional decision

I issued a provisional decision in this case. I said the following

In order to make any award for financial loss and or distress and inconvenience I must first determine whether SL did anything wrong.

The parties had communicated at length. I noted also that Mr S has accepted the first view issued by the investigator but not the second.

I had not therefore set out a timeline at length or repeated the details as these were accepted by the parties. I therefore focused only on the three periods of time that both parties agreed are the ones to consider.

In considering those time periods I considered whether there was evidence of delay by SL and whether it was an unreasonable delay. It wasn't for me to impose an arbitrary timescale for completion of any particular step in the process. I had taken into account that the current industry standard for transfers remains 10 working days for each step. However I had also taken account of the fact that the industry in the TRIG consultation has acknowledged that shorter time periods are now more achievable and that SL itself accepted that a period of 5 to 10 days (shorter than the ABI standard) could be reasonable.

I also thought it was important to reflect that an in-specie transfer of its nature involves many parties. In this case Mr S, his IFA, SL, the ceding scheme and each of the fund/investment managers and/or custodians for them. Therefore there is chance of miscommunication between parties.

I reviewed each of the three timeframes to consider whether I thought there has been delay and whether it is an unreasonable delay.

1. Thursday 16 July 2020 – Saturday 1 August 2020

This is a timeframe of 11 business days.

The first impression was that there is a delay, as it was longer than the industry standard and what SL itself said would be reasonable (5 to 10 days). I must therefore decide if it was an unreasonable delay. But to do so I needed to consider what was happening and why.

SL said it had an instruction on 16 July 2020 but said there were still queries as it didn't match that entered on the platform. While the IFA replied on the same day the reply wasn't attached to the correct mailbox stream until 31 July and hence the next action was not taken until 1 August 2020.

SL felt the adviser had contributed to the delay by not sending to the team mailbox. It also said if the details in the email matched the expectation that was keyed to the platform by the adviser there wouldn't have been any need for it to ask for clarification.

There were clearly issues with the information submitted on 16 July such that further information was needed before SL could take any action. So in essence SL couldn't start to do what was needed on 16 July. The IFA has not disputed this, as it says it then sent further information. Even if there had not been arguments between the parties about sending information to the wrong mailbox, it is clear SL needed more information before it could go ahead, whether that information was sent to the correct mailbox or not.

It wasn't for me to tell SL that it should act on information that wasn't sent to the main team mailbox but in any event I didn't think I needed to.

I said that because SL would have had to check what was submitted in clarification on 16 July. If there hadn't been a mailbox issue it would not have been able to start to action the request until the information was complete so in effect 16 July is not the correct start date as the action wasn't ready to start at the start of the day.

For that reason I think it is reasonable to assume that but for the mailbox issue it would have had complete information by the end of the 16 July. That would have meant it could start to action the request with correct information on 17 July. Had it done so and allowing the industry standard period of 10 working days to do this, it would have completed this step by 1 August 2020, which is the same timescale as it actually took to complete it. So on balance I couldn't conclude there was unreasonable delay.

I had also considered that once the information was received on 31 July, SL completed the next step on 1 August. So it does seem that it would have been possible to complete this step more quickly than the 10 days allowed. But that does not mean that I can conclude there was unreasonable delay. As I said the timescale taken didn't exceed the industry standard of 10 days so while there may have been a delay I can't say it was unreasonable.

2. Wednesday 16 September 2020 – Monday 28 September 2020

This is a time period of 7 working days. The activity related to a valuation which was received by SL on 16 September 2020. It said the assets listed didn't match those of the

expectation entered on the platform.

SL said that it had to complete an acceptability check. This was a thorough check of the underlying assets of the funds, the liquidity of the asset and also ensured these investments are regulated by an approved body. The regulator would expect it to undertake these

checks. While it may have already checked those assets and previously approved them, it had to carry out constant checks whenever there are any changes.

Given the number of assets within the valuation and the fact this was completed within the ABI 10-day timescale, I couldn't, based on the evidence and accepted industry standards reasonably conclude that there was any unreasonable delay in this step.

3. Monday 14 December 2020 – Wednesday 23 December 2020

This was a time period of 6 working days. This is less than the ABI standard 10 working days. I could see from the timeline of events (based on records from SL and the IFA) the following.

SL received settlement details for a fund on 14 December 2020. Based on this it seems it took 6 working days to prepare and send appropriate forms to the fund manager.

SL said the company involved were a worldwide international company and are not solely a tech provider for platforms. In this respect, it was a custodian and like any other fund manager, it was separate from SL which meant it didn't have any influence or control in how it processed the re-registration, but more importantly how quickly this was done.

The company was in this instance chosen by the external fund manager's. It was the fund manager's responsibility to choose the custodian. SL had no control over this. I noted that Mr S argued that SL had some control over the third party. But I think the explanation provided by SL is reasonable and it wasn't responsible for the time the third party took to complete the step.

SL was not involved in the registration process and it was therefore reliant on the external fund manager's custodian processing the re-registration.

Given all of this and the fact the time taken was within the 10-day ABI standard, I didn't think I could reasonably conclude there was evidence of unreasonable delay.

Having considered each of the period in questions, on balance I couldn't 't reasonably conclude there was evidence to show that there was any unreasonable delay by SL.

I did understand Mr S's frustration but making an in-specie transfer isn't an exact science. It isn't possible to be certain of the exact timescale within which matters could be completed not least due to the number of parties involved. It is for this reason some opt to disinvest and complete a cash transfer. I know that Mr S and his adviser considered that but instead opted for the in-specie transfer to avoid time out of the market.

For those reasons, I didn't propose to uphold this complaint.

SL accepted my provisional decision.

Mr S wanted me to reconsider my decision and in particular:-

1. The ABI and TRIG standards. He referred to the comment that '*Many assets are still papers based so 48 hours was unrealistic*' and that with respect to the delay between 16 July 2020 and 1 August 2020 *'it does seem that it would have been possible to complete this step more quickly than the 10 days allowed. But that does not mean that I can conclude there was unreasonable delay, As I have said the timescale taken didn't exceed the industry standard of 10 days so while there may have been a delay I can't say it was unreasonable*.

He said this delay was mainly caused by SL not acting on the email SL received on 16/7/2020 and claiming that it was not sent to the correct mailbox. This was not a claim they made in their initial complaint response of 22/09/2021. As had been mentioned, the correspondence was directly with a named individual and several emails were exchanged with her from the period of 6/7/2020 to 16/7/2020. At no point during this 2-way communication did the named individual at SL say that we should be using a different mailbox for communication. She asked for the information and, as per the custom that had been built in this particular phase of communication, the IFA replied directly to her with the required information on 16/7/2020. SL then did not attach this information to the correct mailbox stream until 31st July 2020. Given the context of the communication, he strongly felt this was an unreasonable delay. If the rationale to choose the 2006 ABI 10-day standard over the 2016 TRIG standard (and ignore the advances in technology in that 10-year period, let alone the proceeding 4 years to the date of these delays) is based on 48-hour responses being unrealistic because of paper based assets, then the 10-day period cannot apply to this delay as there was no transfer of assets at all at this moment. It was purely email communication to establish which assets would be transferred and SL clearly ignored a valid email to a valid inbox where valid correspondence had been ongoing for the previous 10 days, all of which had previously been replied/actioned by SL.

2. On the subject of technology, he found it very difficult to understand why I had overruled the Investigator, The investigator said "*When this service considers complaints about transfer delays, the approach we take is to look at whether each step was completed within a reasonable timeframe. Whilst there's been little industry guidance on such matters for a while, a 2016 consultation paper carried out by The Transfers and Re-registration Industry Group suggests a 48-hour (business day) standard for completing each step of a transfer. Given the adoption of new technologies this seems reasonable".*

3. With reference to SL's claim that they were working towards the TRIG guidance, but had not adopted it, it seems as if this has been accepted as acceptable despite the TRIG guidance having been in place for 4 years, which, to us, does not seem to be a reasonable timeframe in itself to be working towards better standards for clients, but not adopting these standards. This attitude surely only impairs the ability to provide a good service to customers and, in this specific example, seems to have been noted by SL in order to excuse themselves for delays caused by themselves. It seems almost too easy for them to claim they have not adopted the TRIG guidance and, therefore, be able to excuse themselves of these delays.

4. With regards to the delay of 16/9/2020 to 28/9/2020, the technology point once again becomes relevant. He felt very strongly that it is reasonable to expect that advances in technology would allow for 16 assets to be assessed in much less than 7 or 8 working days.

   Even if this time period is classed as 7 working days, that is an average of 2.3 assets per day, where the vast majority of the assets were either funds or listed, blue chip equities, which should not be difficult for an organization with the size and the resources of SL to assess. Therefore, he strongly felt the investigators original recommendation should be applied to this delay.

5. Whilst he accepted that "an in-specie transfer wasn't an exact science", he asked me to reconsider my provisional decision, mainly based on the fact that applying a 2006 standard to a process that took place in 2020 in an industry where technology and the efficiencies is delivers are fast moving, is, to us, not reasonable or fair.

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.

Having done so I have not changed my mind for the following reasons.

1. I note the comments Mr S makes about the ABI statement and TRIG framework. I considered both in reaching my provisional decision. The TRIG framework is not one that SL are *required* to adhere to though there is an encouragement to do so. SL has accepted that it is working towards the standard but has not fully adopted it as yet and I cannot tell it to do so. It is not for this service to impose obligations or standards on SL that are higher than those that exist and where neither the Regulator nor Law has imposed any such standard. I have however considered and applied these suggestions of best practice to each time period to reach a conclusion about each of them which in the light of them is fair and reasonable.

   I have set out below further comments on the issues applicable to the July 2020 exchange.

2. With respect to the interaction between the investigators view and my decision, as an Ombudsman I review the evidence of the complaint afresh and reach my own conclusion.

3. With respect to Mr S's comments about the TRIG standard I would refer to my reply above.

4. With respect to the August 2020 timeframe I would comment again that it is not for the service to impose an assumed timeframe for completion of a step. Had SL accepted that 48 hours was reasonable I could have done so. But it did not. I therefore considered it in the light of best practice and the circumstances of each of the time periods and reached the conclusion I did for the reasons set out in my provisional decision.

5. Mr S also said that '*applying a 2006 standard to a process that took place in 2020 in an industry where technology and the efficiencies it delivers are fast moving, is, to us, not reasonable or fair'.* While I note what Mr S says and I understand his frustration, I would refer to my answers above and those set out in my provisional decision.

6. With respect to the July 2020 timeframe and the failure to use the correct mailbox I have considered this carefully in my provisional decision and don't think there is a need to further repeat what I said.

My final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 15 April 2023.

Colette Bewley
Ombudsman