

The complaint

Mrs W complains about the service she received from Landmark Financial Planning Limited (“LFP”) when transferring the proceeds of her Occupational Pension Scheme (“OPS”) pension to a Self-Invested Personal Pension (“SIPP”). She says LFP’s actions caused her to suffer a financial loss, for which she’d like to be compensated.

What happened

I issued a provisional decision on 23 February 2023. I’ve recapped the background below:

“On 20 March 2017, Mrs W contacted the trustee of her OPS (“the trustee”), asking for a statement of her pension entitlement. Following this, on 28 March 2017, the trustee sent Mrs W a statement confirming, amongst other things, the following:

- Her guaranteed Cash Equivalent Transfer Value (“CETV”) was £562,572.32 (“March CETV”).*
- To secure the March CETV, the trustee required a Transfer Agreement form completed and signed by Mrs W and a representative of the scheme she was transferring to. A signed Confirmation of Appropriate Independent Advice form was also needed and both documents had to be returned before the CETV guarantee deadline (“CETV deadline”), 28 June 2017.*
- If the Transfer Agreement form was received after the CETV deadline, Mrs W’s CETV would be recalculated.*

Mrs W contacted LFP on 12 April 2017, seeking advice about her OPS pension. She met with LFP on 19 April 2017 and, the next day, LFP requested a Transfer Value Analysis report (“TVAS”) from a third party (“Firm O”).

Firm O emailed LFP and the trustee on 9 May 2017, requesting information about Mrs W’s OPS benefits. LFP responded on the same day and the trustee responded on 16 May 2017.

Firm O completed and sent LFP the TVAS on 1 June 2017. LFP forwarded the TVAS to Mrs W the following day, asking her to let it know when, one day in the following week, she could meet to discuss the TVAS and its cashflow analysis.

Mrs W met with LFP on 19 June 2017. The TVAS and cashflow analysis were discussed, and Mrs W confirmed that, subject to LFP’s advice, she wanted to transfer. LFP sent Mrs W a copy of its cashflow analysis on the same day and advised her to transfer. On 23 June 2017, it sent Mrs W transfer forms, asking her to complete and return them as soon as possible, so they could be sent to the trustee before the deadline.

On 26 June 2017, LFP emailed Mrs W, attaching its advice letter, and saying that completing and returning the transfer forms previously sent by the following day was crucial to ensure the trustee received them by 28 June 2017.

Having received Mrs W’s completed forms on 27 June 2017, LFP forwarded them to the trustee on the same day, saying information required in the Transfer Agreement form from

the receiving scheme ("Provider T") would be sent directly by it. LFP sent Provider T the Transfer Agreement form for completion on the same day.

Having received the Transfer Agreement form on 28 June 2017, Provider T returned it and a Transfer Instruction to the trustee the next day. The trustee received the documentation on 3 July 2017, but later confirmed that Provider T had completed the Transfer Agreement form with details for another customer.

On 4 August 2017, Provider T sent new Transfer Agreement and Transfer Instruction forms to the trustee, explaining that it had previously provided incorrect information. The trustee responded saying that as the CETV deadline had passed, Mrs W's March CETV was no longer valid.

The trustee later emailed Mrs W on 7 August 2017, confirming that as it hadn't received the necessary forms "by the extended guaranteed date of 28 July 2017", her transfer case had been closed and a new CETV quote would be sent.

A new quote was issued on 22 August 2017, confirming a CETV of £541,541.79. Upon receiving this, Mrs W contacted LFP, querying the lower figure. LFP later contacted the trustee, which explained that as it hadn't received Provider T's Transfer Agreement form by the deadline and some of its paperwork was incorrect, the March CETV quote couldn't be honoured.

LFP later complained to the trustee on Mrs W's behalf, arguing that Mrs W had been treated unfairly. It said that the trustee had provided conflicting information about the CETV deadline, noting that it had previously dealt with transfers from the Mrs W's OPS where, despite receiving scheme documents being outstanding up to a month after the CETV deadline, the guaranteed CETV had still been honoured. Although it accepted that some documentation was returned after the CETV deadline, this was within the grace period the trustee usually provided.

The trustee responded, saying that without evidence Provider T had attempted to send a correctly completed Transfer form before the CETV deadline, it couldn't honour the March CETV. It also noted that none of Mrs W's transfer forms had been returned fully completed. Although it had previously adopted a discretionary practice where, in certain circumstances, it would allow a further month for transfer paperwork to be received, this practice stopped after 12 May 2017. Moreover, it had never been the case that incomplete paperwork would be sufficient to secure the guaranteed CETV. It said that its 7 August 2017 email had incorrectly stated that an extended CETV deadline applied, however this didn't change the requirement to recalculate Mrs W's CETV given that correct documents from Provider T weren't received until 7 August 2017.

Unhappy with the trustee's response, LFP referred Mrs W's complaint to the Pensions Ombudsman (PO) on her behalf. The PO considered the matter but didn't uphold it.

In March 2021, Mrs W wrote to LFP and complained, saying it was responsible for ensuring the transfer was carried out correctly and she'd expected it to be completed by the March CETV deadline. As this hadn't happened, she considered LFP responsible for the financial impact of this.

LFP later provided its final response to the complaint. In summary, it said that although time had been lost at the start of the transfer process and it was always going to be difficult to meet the CETV deadline, it had worked in a timely manner. It didn't agree it was responsible for Mrs W failing to secure the March CETV.

Unhappy with LFP's response, Mrs W referred her complaint to our service. One of our investigators considered the matter and concluded that while necessary documentation wasn't returned to the trustee in time to secure the March CETV, all indications were that LFP had acted appropriately and in Mrs W's best interests. As he didn't think its actions caused Mrs W to miss the March CETV deadline, he didn't uphold the complaint.

Mrs W disagreed with our investigator's findings, saying, in summary:

- She'd mentioned the CETV deadline to LFP several times, but it never indicated that it might not be met.*
- She'd been disadvantaged by LFP's decision to outsource the TVAS to Firm O, which took too long to produce it.*
- If LFP was concerned about the CETV deadline being missed, she didn't understand why it hadn't called her or suggested a virtual meeting to discuss the TVAS sooner than they had.*
- LFP hadn't acted as quickly as it could've, bearing mind the deadline involved. For example, it wasn't clear why, despite having met on 19 June 2017, LFP didn't issue transfer forms to her until 23 June 2017.*
- LFP had made assumptions about the CETV deadline, and she'd suffered financially because of this.*

As no agreement could be reached, the matter was passed to me for decision. And my provisional findings were 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, I'm intending to partially uphold Mrs W's complaint. I'll explain why. But before I do, I should emphasise that while I've taken note of all the arguments made by both parties, I've limited my response to the issues I consider to be central to this complaint. That's to say:

- What LFP's role and responsibility was during the transfer process and what Mrs W could reasonably expect as a result.*
- Whether LFP's acts or omissions caused Mrs W to miss the March 2017 CETV deadline.*
- What, if any, compensation is due to Mrs W from LFP for what happened.*

Although several different parties were involved in the transfer process, my findings are limited to LFP's acts or omissions as it's the party Mrs W has complained about. Another party may have contributed to delays with the transfer, but I'm unable to make a finding on this. However, this doesn't mean I've ignored the impact of any delays another party may have caused, or that I've held LFP responsible for these.

Overall, I have sympathy for Mrs W. It's clear to me that in deciding to transfer and seeking LFP's advice, she was taking deliberate action to try to ensure her needs in retirement were met. Having confirmed that she wanted to transfer, Mrs W says she expected LFP to facilitate the transfer, ensuring that she secured the March CETV. So, I can understand why she was disappointed when the CETV she secured following the transfer was more than £20,000 less than the one she was originally quoted.

Mrs W considers she did all that was required to ensure she met the CETV deadline. But she says LFP caused delays, without which she would've secured the March CETV.

Accordingly, she'd like LFP to compensate her with the difference between the March CETV and the CETV she secured upon transfer after the March CETV deadline.

The OPS statement specified that unless Mrs W's Transfer Agreement form was received before 28 June 2017, her CETV would be recalculated and could be higher or lower than the value previously quoted. Mrs W and LFP both had sight of the statement, so I'm satisfied the position in terms of securing the March CETV was clear to them. But it seems that despite the deadline provided by the trustee, LFP mistakenly assumed that a grace period of an additional month would be given to meet the requirements for securing the March CETV.

The one-month grace period was something the trustee, using its discretion, had previously provided and which LFP had experienced with clients transferring out of the OPS before. However, it wasn't standard practice. It was a decision made by the trustee on a case-by-case basis, provided that certain requirements were met. So, it wasn't reasonable for LFP to assume it would automatically be in place for Mrs W's transfer, such that it would supersede the trustee's deadline in the March 2017 statement.

Given the significance of the transaction taking place and LFP's obligation as Mrs W's adviser to act in her best interests, LFP ought to have sought confirmation from the trustee of what it assumed the extended CETV deadline was before moving forward. Without doing so, I don't think it was acting with the level of care the situation warranted. And by sharing the assumed CETV deadline with Mrs W, LFP led Mrs W to believe she had more time than she did to meet the trustee's requirements and secure the March CETV.

LFP's position is that it acted as quickly as it could in the circumstances, however factors beyond its control resulted in days being lost in the lead up to the CETV deadline.

With the above in mind, I've looked carefully at the transfer process as it occurred to identify any delays LFP was responsible for and assess their impact, particularly in terms of Mrs W meeting the CETV deadline. In doing so, I've thought about when, but for any errors by LFP, the trustee's requirements for securing the March CETV could've been met.

Mrs W contacted LFP for advice eleven working days after her OPS statement was sent. I don't think this was unreasonable in the way LFP has suggested given how long it likely took for Mrs W to receive the statement. And considering the significant value of the benefits she was considering transferring, she understandably wanted time to reflect on and discuss the matter with her husband before deciding to move forward with an adviser.

From what I've seen, the first notable period of time that passed during the transfer process relates to Firm O's production of the TVAS. LFP requested the TVAS on 20 April 2017. 12 working days later, Firm O asked LFP and the trustees for further information. LFP responded on the same day and the trustee responded 5 working days later. The TVAS was finalised by Firm O 11 working days after this, overall, taking 28 working days to produce.

Mrs W feels the TVAS took too long and that by outsourcing it to another firm LFP put her at a significant disadvantage in the transfer process. While I appreciate Mrs W's position, I don't agree. TVAS reports aren't, by nature, quick or simple documents to produce. Information is usually required from third parties; specialist software is often needed to produce data and relevant technical expertise is necessary to check the calculations and comparisons involved. Because of this, it's common for advisers to outsource TVAS to firms specifically offering this service.

In Mrs W's case, I've seen nothing to indicate that anything out of the ordinary occurred with the production of the TVAS or that there were any unreasonable delays. Mrs W has confirmed that LFP told her the TVAS could take several weeks to be finalised and explained

the reasons for this. So, I'm satisfied LFP appropriately managed Mrs W's expectations in this respect and I don't find that she was disadvantaged in the way she claims.

Following its completion on 1 June 2017, LFP forwarded the TVAS to Mrs W the next day, asking to meet one day in the following week. But, having been abroad at the time, Mrs W wasn't able to meet until 19 June 2017. So, instead of the meeting taking place, at most, 5 working days later, it took twice the amount of time for it to happen.

LFP's submissions suggest it thinks Mrs W caused avoidable delays at this stage and that the time she took to make herself available indicates that she wasn't overly concerned about the CETV deadline. I disagree.

As her adviser, Mrs W reasonably relied on what LFP told her about the trustee's alleged 1 month grace period. And because of LFP's assurances about this, I think Mrs W was likely operating on the incorrect understanding that the CETV deadline was, from the date of LFP's invitation to meet, 40 working days away (so, on 28 July 2017), and not the correct position which was that the deadline was just 18 working days away, on 28 June 2017.

Having been misinformed by LFP originally, I think it's likely that Mrs W was under the impression that there was sufficient time before the CETV deadline to meet and move forward with the transfer. I think this explains why Mrs W chose to wait until she returned from holiday and meet with LFP on 19 June 2017.

I've considered what, on balance, would likely have happened if LFP had, as it should've, taken the trustee's 28 June 2017 CETV deadline to be the only deadline for securing the March CETV. Fundamentally, Mrs W wouldn't have been under the misapprehension that the CETV deadline was 28 July 2017. And with the correct deadline in mind, I think that on 2 June 2017, when LFP invited Mrs W to meet and discuss the TVAS and cashflow analysis, it should've also reminded her that there were only 18 working days left before the March CETV expired. At this point I think it would've also been prudent for LFP to explain to Mrs W that if following its advice, she still wished to transfer, it was possible that due to the steps remaining in the transfer process, the March CETV deadline might not be met, meaning her CETV would be recalculated and could change.

Although LFP says it was always going to be difficult to meet the CETV deadline, I've seen nothing to indicate it shared this information with Mrs W. By not doing so, I think LFP fell short in its duty to ensure it communicated effectively with Mrs W and put her in a position to make informed decisions about the transfer.

If LFP had, at the outset, reaffirmed that the CETV deadline was 28 June 2017, I think it's reasonable to assume that in hoping to secure the March CETV, Mrs W would've made reasonable efforts to meet with LFP the following week as it had proposed, even if it meant having a virtual meeting or telephone call while she was abroad. Based on this, I believe Mrs W would've met with LFP sometime between 5 June 2017 and 9 June 2017. Given the deadline involved and limited time left, I think it's fair to assume Mrs W would've arranged to meet with LFP as soon as possible, so 5 June 2017. And I think it's reasonable to assume that as it did, LFP could've then sent Mrs W transfer documents 4 working days later – so, on 9 June 2017.

I'm aware that Mrs W feels LFP took too long to send the transfer documents. However, I haven't seen anything which persuades me the time taken was excessive. Bearing in mind that LFP had to collate and tag eleven separate forms and documents, including paperwork required by Provider T and LFP, I don't think 4 working days was unreasonable.

Mrs W says she received the transfer documents from LFP on 24 June 2017, 1 working day after they were sent. And she completed and returned them to LFP the following working day. I think it's reasonable to assume the same would've likely happened if LFP sent the documents when I believe it should've, on 9 June 2017. Had this happened, Mrs W would've received the documents on 10 June 2017 and returned them to LFP the next working day (12 June 2017), so it received them on 13 June 2017.

Having received Mrs W's transfer documents, LFP sent Provider T the Transfer Agreement form on the same day. Provider T received the form a day later and forwarded completed documents onto the trustee the following day. Following on from what I've already said about when I think things should've happened, this would've meant that the trustee received transfer documentation from Provider T on 19 June 2017.

This would've left just 7 working days until the deadline for securing the March CETV expired. However, as confirmed in her pension statement, Mrs W would've only been able to secure the March CETV if, in addition to returning a completed and signed Confirmation of Appropriate Independent Advice form, she'd also returned a completed Transfer Agreement form, signed by herself and Provider T. But the reality is that when the trustee reviewed Mrs W's transfer submission, it became clear that its criteria for securing the March CETV hadn't been met. As I understand it, Provider T had sent in a Transfer Agreement form for a different provider containing the details of an unrelated individual.

Provider T did later identify its error and send the trustee the correct Transfer Agreement form with the relevant details provided. However, this wasn't until 24 working days after its first incorrect submission. If the transfer had proceeded as I think it should've – without any failings by LFP – it follows that the trustee would've received Provider T's the correct documentation for securing the March CETV on 26 July 2017. But this would've been 20 working days after the CETV deadline expired. So, notwithstanding what I've said about what LFP should've done differently and what the impact of this would've likely been, I'm unable to conclude that but for LFP's actions, Mrs W would've met the CETV deadline and secured the March CETV.

I understand that having accepted LFP's transfer advice, Mrs W expected to secure the March CETV. She's said she had an agreement with LFP to this effect. However, I've seen nothing to suggest that LFP provided Mrs W with any guarantee that she would secure the March CETV if it recommended that she transfer.

Although I appreciate Mrs W's disappointment that she didn't secure the March CETV, I'm mindful of LFP's role as her adviser during the transfer process. It had an overarching duty to act in Mrs W's best interests. And given the substantial benefits and guarantees Mrs W would be giving up by transferring, LFP's role wasn't to simply justify and make the transfer happen to secure the March 2017 CETV. Its significant and overriding responsibility was to assess Mrs W's objectives against her overall circumstances. It needed to determine what course of action would help her meet her objectives and, above all, place her in the best possible position in retirement. The recommendation also needed to be robust and clearly demonstrate through evidence that it was suitable.

I do consider providing advice and effecting a transfer in a timely fashion to be part of LFP's obligation to act in Mrs W's best interests. However, I don't agree that this meant that ensuring Mrs W secured the March CETV should've been the driving force behind the transfer process.

Overall, it's clear to me that LFP caused some delays in the transfer process here. However, I haven't seen anything which leads me to conclude that it should compensate Mrs W in the way she's seeking. There was never any guarantee that the CETV deadline would be met.

And bearing in mind the involvement of third parties in the transfer and the delays and errors they may have caused, I can't fairly say that LFP is solely to blame for how long it took for the transfer to be completed.

As I've said, I do sympathise with Mrs W. The level by which her CETV decreased before the transfer was completed wasn't insignificant. And if her hope had been to secure the higher transfer value first quoted to her, then she will understandably have been upset and no doubt very disappointed when this didn't happen. However, notwithstanding delays and errors caused by LFP, I haven't seen anything which persuades me that Mrs W would've secured the higher March CETV. So, I can't fairly say that LFP must pay Mrs W the difference between the March CETV and the CETV she ultimately secured.

As set out in its original statement and because the transfer wasn't finalised until after the March CETV deadline, Mrs W's OPS recalculated her transfer value, and this was the amount transferred. I'm satisfied that Mrs W received the transfer value she was entitled to, so I won't be directing LFP to compensate Mrs W in the way she seeks.

I'm aware that Mrs W would like LFP to refund the fee she paid for its advice, as well as any ongoing advice charges. However, the basis on which she's making this claim isn't clear. Mrs W agreed to these fees and charges when she appointed LFP as her adviser. As I understand it, following the transfer, LFP has been retained as Mrs W's adviser and continues to carry out work to this effect. So, I see no reason to make the award she's seeking in this respect.

While I haven't found in Mrs W's favour, in that I don't think LFP should pay her the compensation she's seeking, I should say that I do think it's entirely reasonable for her to have expected LFP to act with more care in the circumstances. And it's unfortunate that this didn't happen at every stage of the transfer. In my view, LFP's assumption about the CETV deadline, meant that Mrs W's expectations about the CETV weren't managed as well as they ought to have been in the circumstances. As a result, LFP caused Mrs W avoidable stress and disappointment, for which I think she should be compensated. In the circumstances, I think LFP should pay Mrs W £300 for trouble and upset caused. I consider this to be fair and reasonable bearing in mind the impact of LFP's actions and what it could've done better."

I invited LFP and Mrs W to respond to my provisional decision. LFP said it had no comments. Mrs W replied and, in summary, said:

- Although I'd said the March CETV was never guaranteed, LFP had confirmed in a letter (dated 20 April 2017) that it would be working with the CETV deadline (28 June 2017) in mind. So, it was aware that there was a deadline to meet.
- The £300 compensation I intended to direct LFP to pay her for avoidable stress and disappointment was unfair, considering that she'd received a much lower pension than she would've done if LFP had acted as it should've.

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, my decision remains the same as before (and as set out above). That means I'm partially upholding Mrs W's complaint for the reasons I've previously given. However, I'll respond to the comments Mrs W has made following my provisional decision.

I can't see that Mrs W has provided this service with a copy of the 20 April 2017 letter she says LFP sent her, confirming that it'd be working with the March CETV deadline in mind.

But even if LFP did send a letter to this effect, I'm not persuaded that this meant – or could reasonably be taken to mean – that if LFP advised Mrs W to transfer, LFP guaranteed that Mrs W secured the March CETV. This wasn't an assurance LFP could provide in the circumstances.

There were different parties involved in the transfer process and several steps which needed to be completed before the transfer could be finalised, some of which were beyond LFP's control. So, while I accept that LFP may have been "*working with*" the CETV deadline (28 June 2017) "*in mind*" – as well as the unofficial extended deadline it incorrectly assumed the trustees would grant – I take this to mean that it was conscious of it during the transfer process, and not that it was in any way guaranteeing that it'd be met. Therefore, my position regarding the March CETV remains the same. I'm unable to agree that Mrs W had an agreement with LFP which guaranteed she'd secure the March CETV. It follows that I don't find that she's suffered the financial loss she claims she's sustained by not getting the March CETV when she transferred.

I appreciate Mrs W's strength of feeling regarding the compensation amount I'm going to direct LFP to pay her for what happened. I understand she doesn't think it's enough. But her comments in response to my provisional decision indicate she feels this way because she considers that but for LFP's actions, she would've received the March CETV which was £20,000 higher than the CETV she received when she transferred. This suggests to me that Mrs W expects the compensation I award her to reflect what she believes to be a significant loss on the value of the pension she should be receiving. For the reasons I've already given, I'm afraid I don't agree.

The £300 I'm going to award Mrs W is for what I think the impact of LFP's actions was where I believe it ought to have acted differently. It's clear to me that LFP caused Mrs W avoidable stress, upset and disappointment when it failed to communicate effectively with her and manage her expectations during the advice and transfer process. And I think £300 acknowledges the impact of this in the circumstances of Mrs W's complaint. I haven't seen anything which persuades me that a higher level of compensation is warranted.

My final decision

For the reasons I've set out, my final decision is that I partially uphold Mrs W's complaint and direct Landmark Financial Planning Limited to pay Mrs W £300 compensation for trouble and upset caused by its service.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs W to accept or reject my decision before 21 March 2023.

Chillel Bailey
Ombudsman