

## **The complaint**

Mr W complains about poor service that he received from Standard Life Assurance Limited when completing the transfer of his pension plan to them. Mr W claims that he has suffered a financial loss as a result of the alleged poor service.

## **What happened**

Mr W held pension policies with two different pension plan providers. He decided to transfer these pension plans to Standard Life. Mr W's complaint is about the transfer from one of these pension plan providers only and therefore the following detail is about the completion of that transfer only.

In this decision I will refer to the provider of the pension plan that Mr W was transferring to Standard Life, and that he has complained about, as "firm A". He was transferring two plan references held with firm A to Standard Life. I will refer to the two plan references as "plan 15" and "plan 16".

In early March 2021 Mr W's financial adviser submitted an application to Standard Life for Mr W's pension held with firm A to be transferred to Standard Life. This application was submitted on Standard Life's online portal. This application stated that the transfer was to be made in cash only. In mid-March 2021 Standard Life contacted firm A and asked that the transfer proceed, and that the transfer value be paid in cash only.

On the next day Standard Life heard back from firm A. They told Standard Life that the transfer could not be fully made as cash. This was because Mr W's pension plan held an investment in a "suspended" fund. Because trading in this fund was suspended then it could not be sold down to cash.

Firm A further explained to Standard Life that the transfer could either be made fully "in specie", or alternatively the suspended fund alone could be transferred "in specie", with the remaining transfer being made in cash. Firm A also explained that it was not possible for any partial transfer to be made and that Standard Life should allow 5 to 6 weeks for an "in specie" fund transfer to complete. No action could be taken on the transfer until firm A was told which of these two options Mr W wanted to take.

Standard Life then took a little over a month to tell Mr W's financial adviser about this information.

Once they did tell Mr W's financial adviser about this communication, Standard Life were instructed that the transfer was to proceed with the suspended fund being transferred "in specie" and the rest of the transfer being sent as cash.

At the end of April 2021, Standard Life sent an email to firm A to confirm the instruction that they had received from Mr W's financial adviser. However, they didn't attach any of the necessary forms to their email that firm A needed to progress the transfer. Firm A replied to Standard Life to tell them that the forms had been left off the email in early May 2021, but Standard Life didn't re-send their email with the necessary forms until the end of May 2021.

At the beginning of June 2021 firm A then raised a further query with Standard Life about the “in specie” transfer of the suspended fund. Mr W held two plan references with firm A, plan 15 and plan 16. Firm A had raised the query about the transfer of plan 15.

Plan 15 held three sub funds, each of which held an investment in the suspended fund. Firm A asked Standard Life which of the three sub funds were to be transferred. They also said that the number of units held in the suspended fund by Mr W in the sub funds was different from the number that Standard Life had quoted in their transfer request.

Standard Life told firm A that all three of the sub funds in plan 15 were to be transferred and requested a valuation for the suspended fund so that they could check the exact number of units held in the suspended fund. Standard Life received this valuation in the middle of June 2021.

The transfer of plan 16 was able to continue during this period and the “in specie” registration of the suspended fund for this plan was completed towards the end of June 2021, with sales on the funds being transferred as cash being placed at the same time. These sales settled at the start of July 2021 and the cash was then transferred to Mr W’s Standard Life policy and invested by his financial adviser. The transfer of plan 16 was therefore completed at that time.

Because of the query that had been raised over the suspended fund holding in the sub funds held in plan 15, the transfer of this plan took longer to complete. In the middle of July 2021 the re-registration of the suspended fund held in plan 15 was completed. Sales of the other funds to be transferred as cash were placed at the same time and these sales then settled, with the resultant cash being transferred to Standard Life at the end of July 2021. The cash received was applied to Mr W’s Standard Life policy in early August and invested by his financial adviser soon afterwards. This completed the transfer of plan 15.

Mr W’s financial adviser complained to Standard Life on Mr W’s behalf in June 2021. Mr W’s financial adviser complained about delays in completing the transfer of Mr W’s pension plan from firm A to Standard Life.

Standard Life responded to the complaint and said that there had been delays in completing the transfers.

Standard Life said that they were responsible for the delay from mid-March to mid-April 2021, when it took them a little over a month to pass on the information from firm A that Mr W’s plan contained units in a suspended fund. They have also agreed that they were responsible for the delay from the end of April to the end of May 2021, when it had taken them almost a month to re-send their email with the transfer forms attached.

Mr W also claimed that Standard Life had caused a further delay in the transfer of plan 15 due to the additional time that it took Standard Life to confirm the exact number of units held in the suspended fund. In response to this part of the complaint Standard Life said that they were not responsible for this delay. They say that they had not been told that separate sub funds were held in plan 15 when Mr W’s financial adviser submitted the transfer application onto their online portal. Standard Life also say that they had no way of knowing there were sub funds held and that they therefore had to check the total number of units held so that they could be sure that all of the units held by Mr W with firm A were transferred to them. Standard Life therefore say that they were not responsible for any delay whilst they were checking the number of units held in the suspended fund in plan 15.

In late August 2021 Standard Life offered Mr W £250 in order to compensate him for the distress and inconvenience that he had suffered as a result of the delays that they had

caused. Mr W rejected that offer in late October 2021.

In late November 2021 Standard Life made a further offer of compensation to Mr W. Standard Life said that their actions had added 33 days to the time that it took to complete the transfer of Mr W's pension. This was due to the delays from mid-March to mid-April 2021 and the delays from the end of April to the end of May 2021, as detailed above. Standard Life said that as they were unable to quantify a loss they would offer Mr W a payment of £814.54, calculated at simple interest rate of 8% for the delays in the transfer Mr W's pension.

In completing their investigation Standard Life also identified that they were responsible for an additional delay of two days in completing the transfer of plan 16, and offered a compensation payment of £3.72 for this, calculated at a simple interest rate of 8%. These payments are in addition to the offer of £250 previously made. The total compensation offered by Standard Life was therefore £1,068.26 (£814.54 + £3.72 + £250).

In December 2021 Mr W rejected Standard Life's offer.

Mr W says that because of the delays caused by Standard Life the value his pension plan was lower when it was transferred than would have been the case if the transfer had been completed earlier, without the delays caused by Standard Life. Mr W also said that he had completed his own calculations which showed this loss at approximately £2,200.

Mr W had also completed his own calculations to show the loss that he suffered because the new investments in Standard Life had not been completed earlier, had Standard Life not delayed the transfer. Mr W has calculated this loss at approximately £5,000. Mr W believes that he should receive this amount of compensation plus the loss he suffered because of the delay in selling his funds held with firm A. Mr W says that his total claim is for £7,200. Standard Life have said that they do not agree with this figure.

In February 2022 Standard Life said that they had decided not to increase their offer of compensation. They did however say that they would reconsider their offer if Mr W could provide them with contract notes from the fund sales that were completed within his firm A pension together with unit prices that would have applied if the sale was made earlier. With this information Standard Life would complete a calculation to confirm what, if any, loss Mr W suffered as a result of their delays.

In their response Standard Life said *"The only way that we will revisit our offer is if you can provide contract notes of the sales that were actually placed by (firm A), along with the associate evidence of the prices that would've been secured if the sales were placed earlier. That way we can make a comparison of what was actually raised and transferred, against what would've been raised and transferred"*.

Standard Life went on to say *"We won't revisit the timeline we've based the compensation on, therefore we need the associated prices for the assets that were sold from (firm A). This would be the prices if the actual sales occurred 33 days earlier"*.

Therefore, Standard Life have said that they need the prices for the funds sold in plan 15 that were applying 33 days before the sales were actually made. They would also need this information for plan 16, from the date that was 33 days before the sales were made in that plan.

Mr W has provided further details of his calculations of loss, and schedules of his pension previously held with firm A. Standard Life have said that this information is not sufficient for them to complete their calculations.

Mr W brought his complaint to the Financial Ombudsman Service. An Investigator within the Financial Ombudsman Service considered Mr W's complaint and concluded that Standard Life's offer to complete a loss calculation was reasonable. However, as Standard Life had not received the information that they had asked for from Mr W to allow the completion of the loss calculation, then their offer to apply 8% simple interest was also reasonable. The Investigator also believed that Standard Life's offer to pay Mr W £250 in compensation of the distress that he suffered was fair and reasonable.

Mr W did not accept this view and asked that this matter be brought to an Ombudsman to consider. I issued a provisional decision in February which both parties responded to. I've taken into account what both parties have said in this 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.

Standard Life has said that they caused delays in the completion of the pension transfer for Mr W. I will therefore firstly consider the timescales involved in completing the transfer for Mr W.

It did take Standard Life over a month to pass on the information they had received from firm A that Mr W's pension plan contained a holding in a suspended fund to Mr W's financial adviser. I have not seen any evidence to show why it took this amount of time to pass on this information to Mr W's financial adviser, so that a decision could then be made on how the transfer could proceed. Until this decision had been made by Mr W and his adviser then no progress could be made on the transfer. I believe that this delay was unreasonable.

I have considered how many days this error delayed the completion of the transfer by. The delay was from 19<sup>th</sup> March 2021 to 21<sup>st</sup> April 2021, which is 23 working days.

Once Mr W and his financial adviser had made a decision on how the transfer was to proceed they gave their instructions to Standard Life and completed an expectation for the transfer on Standard Life's online portal. When Standard Life sent their email to firm A they didn't attach any of the forms needed for the transfer to progress. It then took a month for Standard Life to re-send the forms, even though they had been made aware that the forms were not enclosed soon after their first email was sent. Again, I believe that this delay was unreasonable.

I have again considered how many days this error delayed the completion of Mr W's transfer by. The delay was from 29<sup>th</sup> April 2021 to 28<sup>th</sup> May 2021, which is 21 working days.

Mr W claims that a further delay was caused by Standard Life because the transfer request they sent to firm A did not quote the correct number of units held by Mr W in the suspended fund. Standard Life then had to request a valuation so that they could check the number of units held so that they could be certain that when the "in specie" transfer of the suspended fund was made they would receive all of the units held by Mr W.

I think that once the correct paperwork had been submitted at the end of May 2021 in respect of plan 16, that transfer progressed in an acceptable manner. This transfer completed in early July 2021.

However, I think that the transfer of plan 15 was more involved as a result of the different sub funds held within this plan. As a result, the timescales in completing the transfers of plans 15 and 16 were different.

Standard Life have said that the expectation provided to them by Mr W's financial adviser on their online portal made no mention of there being different sub-funds held in plan 15, and that the request was for a transfer of one plan.

Standard Life have also said that a separate expectation should have been set up for each sub-fund. As this was not done then Standard Life say that they had no way of knowing that different sub-funds were held. As the information held by Standard Life showed a different number of units in the suspended fund to the number of units quoted by firm A, then Standard Life say they had to request a valuation so that they could check this information.

Standard Life's explanation appears reasonable to me. I think that Standard Life had to rely upon the information provided to them by Mr W's financial adviser about the plan that Mr W had with firm A. Otherwise, Standard Life could not have known that different sub-funds were held within plan 15, or that there were separate unit holdings in the suspended fund within each sub-fund.

I also believe that it was reasonable for Standard Life to check the number of units held in the suspended fund. This would enable them to be sure that once the "in specie" transfer was completed then they would be in receipt of all of Mr W's unit holding. The "in specie" transfer could not proceed until Standard Life were holding the correct information. I therefore do not believe that Standard Life were responsible for any delay that occurred whilst they completed this work in respect of plan 15.

Standard Life have said that they did delay the final completion of the transfer of plan 16, by two days. Standard Life have identified that once they received the cash transfer value from firm A, it took them two days longer than was reasonable to move the cash to Mr W's Standard Life policy so that his financial adviser could then invest the cash. I agree that this two working day delay was unreasonable.

I therefore believe that Standard Life were responsible for delays in completing the transfer of Mr W's pension between mid-March and mid-April for 23 days, and from the end of April to the end of May for 21 days. These delays total 44 days.

Standard Life have said that their actions delayed the transfer by 33 days, but I believe that this is incorrect, and that instead the delays total 44 days. I believe that when Standard Life completed their calculation of the number of days that the transfer was delayed for, they have included a ten day allowance for a turnaround time on each transaction involved in the transfer process. They have then deducted this turnaround time from the total number of days that the transfer was delayed by.

But I think that Standard Life is approaching things in the wrong way here. I need to look at what is fair and reasonable in the circumstances of each case. And whilst ten days may well be a reasonable timeframe in certain situations, it doesn't necessarily apply in all situations, and sometimes more or less time may be warranted. I certainly don't think it fair and reasonable that businesses should automatically have a ten day "allowance" that they can then apply whatever the situation and without good reason. I think that the delays that Standard Life were responsible for between mid-March and mid-April, and from the end of April to the end of May, need to be accounted for in full. Standard Life did nothing at all to progress the transfers throughout these periods. As they took no action on the transfers over these periods, then I think that it's unreasonable for Standard Life to claim for any turnaround time allowance to be deducted from my calculation of 44 days.

I also note that Standard Life received the original request from Mr W's financial adviser on 9 March 2021, but they didn't contact firm A to request the transfer until 18 March 2021, so had already taken 7 working days to initially request the transfer. I therefore think that when

allowing for this turnaround time, together with other working days taken by Standard Life to complete other transactions throughout the transfer process, a sufficient turnaround time allowance has already been given to Standard Life, without then also having to deduct additional turnaround time for the two periods above.

In addition, Standard Life were responsible for delaying the movement of cash onto Mr W's Standard Life policy by two days in respect of plan 16 in June 2021. By then the transfer was back on track and Standard Life were taking actions to progress the transfer. I therefore think that on balance it's fair to allow for a turnaround time allowance with regards to that transaction.

I therefore remain of the view that Standard Life's actions delayed the transfer of Mr W's pension by a total of 44 working days. Standard Life were also responsible for delaying the movement of cash in respect of plan 16 by two working days. I should point out here that I've considered Standard Life's point that Mr W's financial adviser contributed to the delays. But Mr W is complaining about Standard Life and I'm satisfied Mr W would have transferred sooner if it hadn't been for the mistakes made by Standard Life that I've identified previously. I therefore consider it fair and reasonable for Standard Life to pay compensation as set out below.

Finally, in response to my provisional decision, Mr W says his compensation should be paid back into his pension. This is my preferred approach too and was reflected in my provisional decision which said Standard Life should pay compensation into Mr W's pension *unless* it disadvantages Mr W in terms of pension protection or allowances. I recognise Mr W doesn't believe there should be any such issues. But I can't be sure of that. So my approach to redress will remain the same as before, which is that it should be paid into Mr W's pension (without any adjustment for tax because Mr W will pay tax on his pension when he draws from it) unless Standard Life is unable to do so or if it would conflict with any existing protection or allowances (in which case compensation should be paid directly to Mr W but with a tax deduction to account for the tax that Mr W would, ultimately, have to pay when drawing his pension).

### **Putting things right**

I now turn to how Mr W should be compensated for the delays identified above.

For the reasons given above, I'm satisfied that Mr W would have transferred his pension 44 working days earlier than he did but for the failings of Standard Life. As stated above, Standard Life were also responsible for delaying the movement of cash in respect of plan 16 by two working days.

Standard Life have offered Mr W a payment of £814.54, calculated at simple interest rate of 8%, for the 44 working day delay in the transfer of Mr W's pension. This figure has been calculated against a delay of 33 days though, so I think is incorrect.

Standard Life made this offer to Mr W in late November 2021. They said at that time that they were unable to quantify an investment loss, so offered to calculate the compensation at 8% simple interest. In February 2022 Standard Life did however say that they would be able to complete a loss calculation, but only if Mr W provided sale contract notes.

Whilst the approach put forward by Standard Life in November 2021 can provide an informal way to offer compensation to Mr W, I need to ensure that Mr W is put back, as far as possible, in the position he would have been had Standard Life's errors not occurred. And my view was, and remains, that the FTSE UK Private Investors Income Total Return index is a better proxy for what Mr W would have achieved on his funds had they been transferred

earlier, given that he made use of a discretionary fund manager.

Standard Life should therefore make an assessment to consider what, if any, losses Mr W suffered as a result of the 44 working day delay in the transfer. Standard Life should:

- Calculate Mr W's transfer values for plan 15 and 16 had he sold his funds with Firm A 44 working days earlier. This date will be different for plan 15 and 16. The combined amount Mr W should have transferred for plans 15 and 16 is figure "X". Standard Life will have to contact firm A in order to calculate X.
- I note that Standard Life have said that they have asked firm A for this information. I don't consider obtaining this information to be an insurmountable problem though. However, to overcome this impasse, I note that Mr W has provided statements from firm A showing his unit holdings in his previous pension in the run-up to the transfer, for example Mr W has provided a unit statement dated 17 May 2021. I recognise that as Mr W was holding a discretionary portfolio it's possible that fund switches could have been made to Mr W's portfolio between the date of the unit statements provided and 44 working days before the transfers were completed. I am however conscious that Standard Life offered to complete a loss calculation in February 2022, so over a year ago, but no calculation has been completed and Standard Life have not given any indication of when they expect to be able to complete their loss calculation. I think that it's reasonable and fair that this matter is now concluded. I therefore think that the unit statements from firm A that Mr W has provided could be used, in conjunction with the relevant unit prices for those funds on the relevant dates, as a reasonable and straightforward alternative if, as they say, Standard Life are unable to obtain the information they need from firm A.
- Calculate the combined notional value of plans 15 and 16 had they been invested from the date the transfer should have happened to the date the transfer actually completed (which I will call the "end date"). The end date will be different for plans 15 and 16. Standard Life should assume the transfer proceeds would have been invested in line with the following benchmark: the FTSE UK Private Investors Income Total Return index. This is figure "Y".
- The notional value ("Y") should be compared with the combined actual value ("Z") of plan 15 and 16 (excluding any in specie transfers) as at the end date. If the actual value ("Z") is greater than the notional value ("Y"), no compensation is payable. If the notional value ("Y") is greater than the actual value ("Z"), there is a loss and compensation for this loss is payable.
- If, having completed their calculations, Standard Life identify a loss they should also pay interest on this loss, calculated from the end date to the date of settlement at 8% simple.

If there is a loss, Standard Life should pay into Mr W's pension plan to increase its value by the 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 Standard Life is unable to pay the compensation into Mr W's pension plan, it should pay that amount directly to him. However, had it been possible to pay into the plan, it would have provided Mr W with 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 W won't be able to reclaim any of the reduction after compensation is paid.

The notional allowance should be calculated using Mr W's actual or expected marginal rate of tax at his selected retirement age. It's reasonable to assume that Mr W is likely to be a basic rate taxpayer at the selected retirement age, so the reduction would equal 20%.

However, if Mr W 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%.

Standard Life also identified that they were responsible for an additional delay of two days in completing the transfer of plan 16, and offered a compensation payment of £3.72 for this, calculated at a simple interest rate of 8%. For simplicity, as the delay has been identified as two days, then I don't propose to alter this formula. Standard Life should pay this in addition to the above.

Standard also need to pay Mr W £250 for the distress and inconvenience he has suffered as a result of the delays.

*Why is this remedy suitable?*

I've chosen this method of compensation because Mr W transferred his pension to what looks like a discretionary portfolio. The list of investments in his new arrangement is extensive and most likely to change on a regular basis in line with market conditions.

My current view, therefore, is that trying to replicate what he would have invested in had he been able to transfer earlier is impossible to assess and would be unnecessarily time consuming for Standard Life to calculate anyway. We're an informal dispute resolution body. With all this in mind, I consider using the FTSE UK Private Investors Income Total Return index as a proxy for the returns Mr W would have achieved is fair and reasonable.

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. As Mr W was investing his pension into a discretionary portfolio then I think that it's reasonable to assume that this is a fair description of Mr W.

### **My final decision**

For the reasons I've set out, I'm upholding Mr W's complaint and require Standard Life Assurance Limited to put things right in the way I've directed above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 3 May 2023.

Ian Barton  
**Ombudsman**