

The complaint

Mr G is unhappy with delays caused by Scottish Friendly Assurance Society Ltd (SF) when transferring the value of the pension he held with them to another provider.

What happened

Mr G had a personal pension with SF, which reached maturity in December 2022 when Mr G reached his 75th birthday. The maturity value was £106,000.03. In January 2023, he decided to transfer this to a new provider, who I'll call 'BI' here.

SF received the transfer request from BI, via the ORIGO system, on 25 January 2023. This wasn't progressed, and Mr G contacted SF on various occasions seeking an update. SF sent Mr G the required transfer forms on 17 April 2023. He completed and returned them by email the following day, also sending hard copies in the post.

By this time, Mr G was unhappy with the time it was taking to transfer the funds, and the lack of progress/updates, and complained to SF. At around the same time, the funds transfer was completed, with funds being transferred to BI on 25 May 2023.

Responding to Mr G's complaint, SF accepted there'd been a delay, and added late payment interest of £655.17 to the amount transferred. They also told Mr G they'd consider any evidence he provided that showed the delay had caused any investment loss once BI invested the funds. And SF also offered to pay Mr G £250 compensation for the distress and inconvenience (D&I) their actions had caused him.

Mr G was unhappy with this offer. He was also unhappy that he'd encountered further problems accessing his benefits from BI, as they'd said they weren't in possession of the required information about his Lifetime Allowance (LTA), which SF should have provided. He brought his complaint to our Service.

The 'LTA issue' was resolved by the middle of July 2023. SF also increased their offer of D&I to £500, which Mr G eventually accepted, and this sum was paid at the end of July 2023.

Our Investigator upheld Mr G's complaint. He agreed with SF's calculation regarding the length of delay they'd caused but disagreed with their redress calculation methodology. He set out his proposed redress methodology – our standard approach in transfer delay complaints – and asked SF to make the necessary enquiries with BI to allow the loss calculation to be done and any loss amount paid.

He also explained that SF's late payment calculation wasn't in line with our redress approach, but as this had already been paid to BI, the amount would need to be offset against any eventual loss calculation. And he felt that £500 was fair compensation for the distress caused to Mr G by SF's delays and actions.

SF were unhappy with elements of our Investigator's View, particularly regarding the actions needed to calculate the loss, and whose responsibility those actions were.

No agreement could be reached on this point, and so SF asked for an Ombudsman to review this complaint – and it's been passed to me to consider further and issue a 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.

SF accept they've caused a delay in the transfer of Mr G's funds to BI. But there appears to be some conflicting information regarding when SF think the transfer should have been made – so I'll address that point first.

SF initially provided a suggested timeframe within which the funds transfer should have completed, had they acted promptly after receiving the ORIGO request on 25 January 2023. Allowing ten working days to send the necessary forms to Mr G, two days for him to respond, and a further ten days to then process the transfer, they concluded that the transfer should have taken place on 24 February 2023.

However, after our Investigator issued his View, SF confirmed (both to Mr G and separately to our Investigator) they'd be looking to calculate his potential investment loss on the assumption his transfer should have taken place on 1 February 2023.

The electronic ORIGO system was put in place to speed up pension transfers. Here, SF already knew the value of Mr G's pension, as it had reached maturity in December 2022. All that essentially needed to be done was to seek Mr G's written authority to the transfer, and then send the funds. Each separate step in that process would or should have taken less than ten working days. So, in the circumstances, I think SF's offer to calculate the loss based on the earlier funds transfer date of 1 February 2023 is a fair one – and this is the date I'll use in my redress calculations below. .

What should SF do now, to rectify the effects of their transfer delay

Usually, when this Service concludes a business has caused a delay in transferring a pension sum to another provider, we expect that business to take steps to put things right. And the onus is on the business to take those necessary steps – after all, it's the business that's caused the delay. But in the course of exchanges between Mr G and SF whilst his complaint was being considered by us, SF told Mr G he'd have to approach BI to obtain the necessary information to allow SF to calculate if he'd suffered any investment loss with them. They said it wasn't "their process" to make such enquiries.

Our Investigator acknowledged it wasn't for this Service to tell SF whether their processes were fair but did conclude it wasn't fair Mr G was being asked to make these enquiries in these circumstances - and I agree. Here, SF have admitted causing a delay in transferring Mr G's pension. That delay *may* have caused him an investment loss once BI were able to invest his funds.

So, I don't think it's fair or reasonable that Mr G should be put to the trouble of obtaining the necessary information from BI to allow SF to calculate if he has indeed suffered an investment loss.

SF has now told us they've reached out to BI to obtain information to calculate if there's been an investment loss. We haven't been told what precisely SF has asked BI for and so, for completeness, I'll set out below the redress calculation method – mirroring our usual approach in complaints like this – that I'd like SF to follow in assessing potential loss here.

Compensation already paid by SF

SF have paid an extra £655.17 to BI as compensation for the delay in making the transfer – calculated at 2% per annum of the sum transferred, for the period between 30 December 2022 and 25 May 2023 (the day the funds were received by BI). However, I don't think this is the appropriate way to calculate loss of investment redress.

But, mirroring our Investigator's comments, it's not fair SF should pay redress compensation twice. So, SF will need to deduct the sum they've paid – £655.17 – from the revised loss calculation amount (assuming there *is* found to be a loss) before making payment.

Further delays caused by BI not being aware of Mr G's LTA information.

Echoing our Investigator's conclusion, I don't hold SF responsible for any delays or fund losses beyond 25 May 2023. I've seen SF included the LTA information on the ORIGO case notes system, which should have been available for BI to see. I don't know why BI didn't see this information, but that isn't something I need to, or am able to consider as part of this complaint. What I can say is I think SF did what they should've done when supplying Mr G's LTA information to BI, and I don't hold them responsible for any loss or inconvenience caused by any further delays after they'd transferred Mr G's funds to BI on 25 May 2023.

Distress and Inconvenience

SF have now paid £500 D&I to Mr G to compensate for the effect of their mistakes. I note however that Mr G has suggested SF pay him up to £2,000 D&I.

A D&I award is not meant to act as a punishment to a business where they've made a mistake. And our role isn't to punish businesses either. Putting a value on distress isn't an exact science – similar acts can affect individuals very differently. That said, the awards this Service makes are fairly modest (guidance relating to these can be found on our website). And given this, I think £500 is a fair representation of the distress and inconvenience Mr G undoubtedly experienced, and so I won't be asking SF to increase this sum.

Putting things right

I need to put Mr G back into the position he would have been in – or as close to that position as possible – had SF transferred his pension funds to BI when I think they should've done. And as I've set out above, I think that transfer should've taken place on 1 February 2023.

Any loss Mr G has suffered should be determined by SF obtaining the notional value of the pension from BI on the basis Mr G's funds of £106,000.03 had been invested in the "Evelyn Growth Portfolio Clean Account" (the fund Mr G did invest his pension in once the transfer had completed) after 1 February 2023, and subtracting the current value of the pension from this notional value.

If the answer is negative, there's a gain and no redress is payable. But if the answer is positive, there's a loss and redress is payable – although £655.17 must be deducted from this sum before any redress is paid, as explained above.

The resulting compensation amount should if possible be paid into Mr G's pension plan. The payment should allow for the effect of charges and any available tax relief. The compensation shouldn't be paid into the pension plan if it would conflict with any existing protection or allowance.

If a payment into the pension isn't possible or has protection or allowance implications, it should be paid directly to Mr G as a lump sum after making a notional reduction to allow for future income tax that would otherwise have been paid.

If Mr G has remaining tax-free cash entitlement, 25% of the loss would be tax-free and 75% would have been taxed according to his likely income tax rate in retirement, presumed to be 20%. So, making a notional reduction of 15% overall from the loss adequately reflects this.

My final decision

I uphold Mr G's complaint against Scottish Friendly Assurance Society Ltd and require them to compensate him using the methodology set out in the 'putting things right' section above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 20 October 2023.

Mark Evans
Ombudsman