

## **The complaint**

Mr B complains that Standard Life Assurance Limited (SL) caused an unreasonable delay to his transfer request. He feels that the additional documentary evidence SL asked for was excessive and unnecessary.

## **What happened**

Mr B has a pension plan with SL which I understand he's had since 2008. He said that on 23 June 2022, he took independent financial advice about his pensions. And that he was told that it would be beneficial to transfer his existing pensions into his employer's Occupational Pension Scheme (OPS).

Mr B said that he started the transfer process for his SL pension with the administrators of his employer's OPS on 24 June 2022. He said he gave the administrators authorisation to proceed with the transfer on 3 August 2022. The administrators wrote to SL about Mr B's transfer on 3 August 2022.

SL received the transfer request from the administrators on 4 August 2022. It replied on 11 August 2022, sending a transfer out application form. This detailed SL's requirements for the transfer to an OPS. The administrator didn't receive SL's reply, so it wrote to SL on 2 September 2022. SL re-sent the transfer out application form and a summary of its requirements on 5 October 2022.

On 11 October 2022, Mr B called SL for an update. He said that during this call, SL told him that it had no record of the paperwork. So the transfer out application had stalled, and he would need to re-complete SL's transfer out application form to re-start the transfer out.

Mr B then submitted the completed transfer forms to the administrator on 13 December 2022.

On 11 January 2023, the administrator sent SL a partially completed transfer out application form. It hadn't sent all of the supporting documentation that SL had requested. Mr B had completed and signed this form in October 2022. But it had been countersigned by the administrator on 11 January 2023.

SL wrote to the administrator on 20 January 2023 to tell it that the Pension Scheme Tax Reference (PSTR) number hadn't been included in the form. It sent a new form. And also asked for the full documentary evidence it'd previously requested to be sent.

Mr B felt that the transfer was taking too long. So he complained to SL on 23 January 2023. He felt this delay had led to his transfer being negatively impacted.

The administrator sent the PSTR number at the start of February 2023. SL wrote to the administrator on 8 February 2023 with a full list of the outstanding information it still required.

The administrator sent SL a fully completed application form on 17 February 2023. SL said it received the completed application from on 21 February 2023. But it still hadn't received the

additional documentary evidence it'd asked for. So it wrote to the administrator again to ask for the information it needed on 28 February 2023.

SL issued its final response to Mr B's complaint on 16 March 2023. It said it hadn't responded to the initial transfer request that it'd received on 4 August 2022 until 5 October 2022, when it'd sent a letter which clearly stated the requirements for a transfer to an OPS. It said it still hadn't received the information it needed, despite chasing the administrator and Mr B on several occasions. As it hadn't received the information it needed, it felt it hadn't caused any delay to the transfer. SL also explained what it still needed to complete the due diligence and arrange the transfer.

Unhappy with this response, Mr B brought his complaint to this service on 2 April 2023.

SL sent a further chaser letter to the administrator on 6 April 2023 to ask for the missing information.

SL told this service that it had given Mr B some incorrect information in its final response letter of 16 March 2023. It said it had in fact responded to the initial transfer request when it sent the administrator its transfer requirements on 11 August 2022.

SL didn't think it had caused any unnecessary delays when dealing with Mr B's transfer request. It said it provided full details at the start about what it needed before it could consider a transfer to an OPS. And that as its requirements had yet to be met, it hadn't been able to progress the request any further.

SL told this service that as it didn't receive its requirements for the transfer, it had written to the administrator on 18 May 2023 to say it was closing the work demand.

Mr B told this service that his complaint has two parts:

1 - SL had initially lost his transfer forms.

2 – SL had incorrectly categorised Mr B's pension transfer as a Second Condition transfer which is a longer process than a First Condition transfer. He didn't think it was right for SL to treat all transfers as Second Condition transfers.

Mr B felt that the delay had led to a fall in the value of his pension. He also wanted to be compensated for the time and effort he'd spent.

Our first investigator didn't think that the complaint should be upheld. He didn't think that SL had caused any unreasonable delays to the pension transfer. He said that the information that SL had reasonably requested so that it could process the transfer hadn't yet been provided.

Mr B didn't agree with our investigator. He felt his pension transfer should've been categorised as a First Condition transfer. And that if SL hadn't needed to perform enhanced due diligence, his transfer wouldn't have been delayed.

Our investigator left this service. So a new investigator considered whether SL should've processed Mr B's pension transfer as a First Condition transfer.

Our investigator considered whether SL should've been aware that the transfer could be treated as a First Condition transfer. He didn't think it was unreasonable that SL's transfer out application form didn't ask if the receiving scheme was a public sector pension scheme, as he felt that such transfers weren't common. And he didn't think that the other information

provided on the application form would've given SL enough indication that the scheme was a public sector scheme. Therefore he felt it would be unfair to expect SL to automatically process the transfer as a First Condition transfer. He felt that the administrator of the receiving scheme should've made SL aware that the receiving scheme was a public sector scheme, because he felt it would be aware of the rules regarding due diligence and the different requirements for each transfer type.

Our investigator agreed with our first investigator that SL had acted reasonably when it had asked for documentation from Mr B when carrying out its due diligence checks. He said that SL had confirmed that it does have different processes for First Condition and Second Condition transfers. So he felt this showed that if SL had been aware that Mr B's transfer was a First Condition transfer, it wouldn't have asked for the extra information to be provided.

Mr B didn't agree with our investigator.

He provided detailed information about the Pension Scams Industry Group's voluntary code. He said he didn't know whether SL was a signatory to this code. But he felt it helpfully suggested what effective due diligence in transfers looked like. And that this didn't agree with our investigator's findings that the administrator should've told SL that he wanted to transfer to a public service pension scheme. He felt that it was up to SL to conduct effective due diligence. Mr B also felt that the inclusion of a basic question on SL's own questionnaire could've resolved the matter.

Mr B said that SL hadn't considered:

- What information was available to it through its own systems either about him, or about his OPS. And what information he'd already given SL.
- What internet searches SL had conducted as part of its due diligence.
- What due diligence SL had previously conducted on his OPS.
- Which red or amber flags were present that meant that SL considered that his transfer was at risk of a scam meaning it should interfere with his statutory rights.
- Whether it is appropriate or within the scope of guidance for third parties to discharge SL's due diligence.

Our investigator considered Mr B's points. But they didn't change his view. He didn't agree that SL automatically treated all transfers as Second Condition transfers. He acknowledged that the transfer process was subject to delays, but felt these were mostly caused by the administrator. He said that SL's transfer form wasn't aimed at either First Condition or Second Condition transfers. But that it was a generic form aimed at efficiently gathering information.

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

### **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'm not going to uphold it. I know this will be disappointing for Mr B. I'll explain the reasons for my decision.

I first considered Mr B's complaint about SL losing Mr B's first transfer forms.

*Did SL lose Mr B's first transfer forms?*

Although SL did state in its final response letter that it'd failed to reply to the first transfer request in August 2022, it has now corrected this error. SL said it did respond to the initial request on 11 August 2022. There's no evidence to suggest that SL initially lost Mr B's transfer forms. So I won't consider this point further in my decision.

I next considered the crux of this complaint – that SL should've identified Mr B's transfer as a First Condition transfer and proceeded with the transfer on that basis.

*Should SL have identified the transfer as a First Condition transfer?*

Mr B said that there was publicly available information about his employer's scheme which he felt SL could've accessed before it'd asked him to provide additional information. He said this would've identified his transfer as meeting the First Condition without the need to request such additional information from him because he wanted to transfer to an OPS. And that the "Conditions for Transfers" Regulations stated that SL must not require such information for a First Condition transfer.

I first considered whether SL should've identified whether or not Mr B's transfer might meet the First Condition before it asked him for additional information.

The First Condition, section 7 of the Conditions of Transfer Regulations, covers transfers into certain receiving schemes. I've included the relevant parts of it below:

*(2) The First Condition applies to a transfer to a receiving scheme that is one of the types of scheme specified in paragraph (3).*

*(3) The types of receiving scheme referred to in paragraph (2) are any of the following—*

*(a) a public service pension scheme as defined in section 1(1) of the 1993 Act (categories of pension schemes);...*

Mr B said that the scheme he wants to transfer his benefits with SL to is a public service pension scheme. So he feels that his transfer request should've met the First Condition.

Section 6 of the Conditions of Transfer Regulations covers: Standards of proof, relevant evidence or information, and timing for decisions regarding satisfaction of the conditions. This states:

*(1) In order for the trustees or managers of the transferring scheme to decide that the First Condition is satisfied, they must satisfy themselves beyond reasonable doubt either that the receiving scheme is established, or listed as authorised, as set out in regulation 7(4).*

Regulation 7(4) states:

*The First Condition is satisfied where the trustees or managers of the transferring scheme have satisfied themselves that the receiving scheme is established, in the case of sub-paragraph (a) of paragraph (3), or is listed as authorised by the Pensions Regulator, in the case of sub-paragraph (b) or (c) of that paragraph, in accordance with the legislation referred to in the relevant sub-paragraph.*

And regulation 7(5) states:

*In satisfying themselves of the relevant matter required by paragraph (4), the trustees or managers of the transferring scheme must not require that the member provide evidence or information apart from the details necessary for the trustees or managers of the transferring scheme to identify the correct receiving scheme.*

Regulation 8 states that:

*(2) The Second Condition applies to all transfers to which the First Condition does not apply.*

Regulation 10 then states what information the transferring scheme must request from the member where the Second Condition applies to a transfer into one of the following types of receiving scheme, as follows:

*(a) where the receiving scheme is an occupational pension scheme, subject to sub-paragraph (c), the evidence specified in regulation 11 to demonstrate the employment link;*

And Regulation 11 then states what evidence is required to demonstrate the employment link:

(2) The evidence required to demonstrate the employment link is that specified in paragraphs (3) to (6).

(3) A letter from the member's employer confirming that—

*(a) the employer is a sponsoring employer of the receiving scheme;*

*(b) the member is employed by them;*

*(c) the date from which the member has been continuously in their employment; and*

*(d) contributions to the receiving scheme shown as due to be paid by the schedule, required in accordance with paragraph (4), have been paid and the dates of those payments, or, where the amounts of the contributions that have actually been paid are different to those that were due to be paid, those actual amounts and the dates they were paid.*

(4) A schedule of contributions or payment schedule showing—

*(a) separate entries for the amounts of pension contributions (excluding additional voluntary contributions) to the receiving scheme that were due to be paid for the relevant employment period by, or on behalf of, the member and the employer, or the employer only, in respect of that member; and*

*(b) the dates on which those contributions were due to be paid.*

(5) Payslips, or other evidence in writing advising of pay remittances, showing the salary paid to the member by their employer for the relevant employment period.

(6) Copies of the personal bank or a building society statements, or a copy of a building society passbook, showing the deposit of salary for the relevant employment period, or, where the trustees or managers of the transferring scheme request it, a certified copy of each statement or of the passbook.

SL told this service that it does have different due diligence requirements for First and Second Condition transfers. It said it didn't identify Mr B's transfer as a First Condition transfer from the information provided. It said that the regulations required it to be "*satisfied*"

*beyond reasonable doubt that the receiving scheme is one of those listed above*", before it could progress the transfer without any further checks. And that, based on the information provided, it couldn't say beyond reasonable doubt that the receiving scheme was one of those listed which would allow it to progress the transfer without any further checks. Therefore it had asked for the additional information it felt it needed. But as this hadn't been provided, it wasn't yet in a position to determine whether or not this was a First Condition transfer.

SL said that if Mr B's pension administrator could send it confirmation that the receiving scheme was a public service pension scheme then it could proceed with the transfer as a First Condition transfer without the additional information it had previously asked for.

Mr B said that the form SL initially asked him complete so it could assess the transfer request didn't allow him to proceed as a First Condition transfer. Instead, it requested the further information SL wanted because the transfer was to an OPS. Mr B said that it was therefore impossible for him to meet the conditions of a First Condition transfer. He didn't think this was fair or reasonable.

I agree with our second investigator that if SL had known that the scheme Mr B wanted to transfer to was a public sector scheme earlier in the process, its requests to Mr B would've been different. But I also agree that SL had the right to put in place the checks it felt were appropriate.

I acknowledge that it would've been easier for Mr B if the transfer form had allowed him to state that the OPS he wanted to transfer to was a public sector scheme. But that doesn't mean that I can fairly hold SL responsible for a transfer delay because its form wasn't perfectly suited to the specifics of Mr B's transfer. It's up to SL to decide if it wants to amend its transfer form going forward.

I also acknowledge that it might've been possible for SL to have used information other than that on the transfer form – for example information available on the internet, or information it had already gathered from previous work with Mr B's OPS – to enable it to conclude that Mr B's request could be treated as a First Condition transfer. But again, this doesn't mean that I should fairly hold SL responsible for any transfer delay because it didn't take these additional steps. I say this because I've seen no evidence that SL failed to follow its normal process when considering Mr B's transfer request. And therefore I can't reasonably say that failed to treat him fairly.

From what I've seen, once SL felt that it didn't have enough information to conclude beyond reasonable doubt that the transfer was a First Condition transfer, it requested the information required under Regulation 11. So, while I can see that Mr B feels that SL asked for this information because it must have considered that his transfer was at risk of a scam, I can't fairly agree. I consider that SL asked for this information because the transfer was to an OPS. I'm therefore satisfied that this was the correct action to take under the circumstances.

I've also considered Mr B's detailed points about the Pension Scams Industry Group's voluntary code. I agree that this code does set out a process which, if SL had followed it, would've led to an earlier understanding that Mr B's transfer request might meet the First Condition regulations. But I can't fairly assess SL's actions against a voluntary code as it isn't required to follow it.

SL has now clarified that Mr B doesn't need to provide the additional information it initially requested from him because his transfer was to an OPS. But that his administrator needs to send written confirmation that the receiving scheme is a public service pension scheme. This means that once it receives that clarification, it will treat the transfer as a First Condition

transfer.

I acknowledge that Mr B considers that the administrator shouldn't be required to notify SL that his OPS is a public service pension scheme. And that he feels that this would mean that SL isn't conducting its own due diligence as required by the Regulations. But I don't agree that it's unreasonable for SL to ask the administrator for information that it can easily provide to confirm that the transfer request meets the First Conditions. And while I acknowledge that Mr B would prefer SL to take the information it needs directly from public sources, I can't reasonably agree.

I say this because I'm satisfied that the purpose of the due diligence is to ensure that customer's don't fall victims to pension scams. And therefore I consider that SL's need to hear about the type of receiving scheme Mr B wants to transfer to from its administrator is reasonable.

I also acknowledge that Mr B considers that the form SL asked him to complete from the start was unfair and unreasonable, as he felt it effectively required Second Condition type information for all pension transfer requests. But I don't agree.

I say this because the form clearly does allow a First Condition transfer for some, non-OPS transfers. And because SL has now confirmed that it only needs Mr B's administrator to write to it to confirm that the receiving scheme is public sector scheme before it can proceed with a First Condition transfer.

I've found no evidence that SL has caused unnecessary delays to Mr B's transfer. Therefore I can't reasonably uphold this complaint.

### **My final decision**

For the reasons explained above, I don't uphold Mr B's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 16 April 2024.

Jo Occleshaw  
**Ombudsman**