

The complaint

On 11 October 2023 Mr W instructed the transfer of his Self-Invested Personal Pension ('SIPP') from Hargreaves Lansdown ('HL') to Vanguard Asset Management Ltd ('Vanguard') – the 'SIPP switch'. This was conducted, by both firms, through Origo (the online pension transfer service). HL liquidated the SIPP and around £652,000 was transferred to Vanguard on 20 October 2023. Vanguard did not apply this cash to his Vanguard SIPP account until 13 November 2023.

Mr W complains mainly about the following –

- The 24 days (between 20 October and 13 November) over which his cash was not allocated to his Vanguard SIPP and during which he says he lost interest on the cash.
- His claim that Vanguard's delay in allocating the cash to the SIPP also resulted in its delay to execute two specific investment instructions (to invest in the FTSE UK All Share Index Unit Trust (the 'FTSE UT fund') and the FTSE UK Equity Income Index Fund (the 'FTSE Equity fund')) he had given at the same time as he instructed the SIPP switch. He says the investment(s) was made later than it should have been and that the delay also meant the investment(s) was not made before an associated ex-dividend date, so the delay caused a loss of dividend income.

What happened

Vanguard upheld Mr W's complaint. Within its responses to him and to our service, it said the following –

- It operates on the basis of taking action on received funds within five working days. The cash was received on 20 October but it could not be allocated into the Vanguard SIPP until specific enquiries about Mr W's Life-Time Allowance ('LTA') and crystallisation events in his HL SIPP were checked/verified directly with HL. It made these enquiries on 1 November. It received HL's response on 9 November and the SIPP switch was completed on 13 November. In the course of doing so it caused a two working days delay (discounting the five working days allowance) before it checked the enquiries with its technical team (after which the enquiries to HL were sent). It accepts responsibility for this two working days delay and apologises for it.
- For the trouble and inconvenience caused by the delay – including £50 for the time taken to address Mr W's complaint – it has paid him £125 compensation.
- It has also addressed the matter of financial loss resulting from the delay. In this respect, the cash was eventually invested in four funds – the FTSE UT fund, the FTSE Equity fund, the UK Long Duration Gilt Index Fund (the 'Gilt fund') and the UK Investment Grade Bond Index Fund (the 'Bond fund'). The FTSE UT and Equity funds were invested into on 13 and 14 November, but for the delay those investments would have happened two working days earlier. Price comparisons show that the delay worked in favour of Mr W for the FTSE UT fund, so no redress is

required in this respect, but it worked against him for the FTSE Equity fund. It has calculated the loss in units caused by the delay for the latter investment and it has credited Mr W's SIPP with those lost units. The delay also worked in his favour for the SIPP's investments in the Gilt and Bond funds, so no redress is required for them.

Mr W disagreed with this outcome and referred the matter to our service. He considers that the outcome fails to address his losses.

One of our investigators looked into the complaint. He initially endorsed Vanguard's actions in the matter, before reviewing the case further and determining that it needs to do more.

He said regulatory guidance suggests that each relevant part of Vanguard's process should have been completed within two working days. On this basis, he took the view that the initial events should have happened as follows – Vanguard received the cash holding on 20 October; it should have referred to its technical team within two working days thereafter, so by 24 October; and within two working days, by 26 October, that team should have decided to either allocate the cash to the SIPP or to raise any enquiry that needed to be put to HL.

The investigator noted that it took HL six working days to respond to Vanguard's enquiries, so this should be applied as it is, and that in doing so – and based on what should have happened (as above) – HL would have responded to Vanguard on 3 November and Vanguard would have been able to allocate the cash to the SIPP and execute the instructed investments two working days thereafter (on 7 November).

For these reasons, the investigator concluded that Vanguard should recalculate redress for loss in the SIPP account based on the SIPP switch being completed on 7 November.

The investigator did not uphold Mr W's claim for interest over the full 24 days period between Vanguard's receipt of the cash (on 20 October) and its completion of the switch and cash allocation (on 13 November). He concluded that its enquiries to HL were fair and legitimate, that even though Mr W says he had already addressed those enquiries in the transfer application (and could have done so further if asked to at the time) Vanguard needed to receive verification directly from HL and that it could not complete the switch and allocate the cash until this was done.

The investigator also found the payment that has been made to Mr W for trouble and inconvenience to be fair.

Mr W disagrees with this outcome. He considers that the investigator misguided himself and approached the complaint as one about administration when it has more to do with Vanguard's fiduciary duty towards him. He mainly says –

- Evidence in his application for the SIPP switch and in the Origo records stand in support of his argument that Vanguard's enquiries to HL were not necessary. The information it sought to verify was already confirmed in both and was already available to it by the time it received the cash on 20 October. To compound its pursuit for information it already had, it did so without urgency. After receipt of the cash on 20 October, it did not raise the enquiries until 1 November, then it did not chase for HL's response until 7 November.
- The expected completion date for the switch was stated as 23 October on Origo, and Vanguard breached that significantly. Had this date been met, there would have been seven working days available thereafter to action his investment instruction ahead of the 1 November ex-dividend date. On this basis, but for Vanguard's delay the

investment would have been made before this date, so it is responsible for the associated loss of dividend.

- The SIPP switch was essentially *accepted and completed* – which is the requirement for completion in the transfer agreement – on 20 October when Vanguard received the cash. From that point onwards, it was obliged to invest the cash as instructed or apply interest to it. It did neither until 13 November. This breached the terms of the transfer and its fiduciary duty towards him.
- On 24 June 2024 he received a payment of £185.78 from Vanguard which appears to represent compensation for four days' interest on the transferred cash (at Vanguard's SIPP cash account interest rate of 2.6% per year), so it owes him the remainder compensation for 20 days interest (around £900). Vanguard should never be in a position where it benefits from holding his unallocated cash at his expense and that is what it has sought to do by retaining interest earned on his cash.
- Vanguard's payment to him of £125 for trouble and inconvenience does not address any of the above matters. As far as he is concerned, the 24 days lost interest is the primary issue in his complaint, the timing of the Vanguard SIPP's investments is then the secondary issue. The basis on which Vanguard held his cash but did not allocate it to his SIPP is arguably irrelevant because its responsibility to pay interest for that cash arises from its receipt of the cash on 20 October and its fiduciary duty towards him from that point onwards, not from when it chose to allocate the cash to the SIPP.

The matter was referred to an Ombudsman.

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 reached the same conclusion expressed in the investigator's revised view, for broadly the same reasons he gave. In a nutshell, Vanguard is responsible for a period of delay in the SIPP switch process and it must do more than it has already done in order to fairly redress financial loss.

In addition to the merits of the complaint, I have focused on redress for financial loss because there does not appear to be much of a dispute, if any, over Vanguard's £125 payment to Mr W for the trouble and inconvenience he was caused.

I have considered the payment and I endorse it. I appreciate that part of it – £50 – relates to Vanguard's complaint handling. Complaint handling, in isolation, is beyond our jurisdiction so I cannot make any findings on that. However, I consider that the balance of £75 is a fair amount to compensate for the trouble and inconvenience Mr W was caused. Without being dismissive of his experience, the effect of the delay in his case – other than the financial effect which is to be separately addressed – was relatively minimal. That non-financial effect was also somewhat mitigated by the reasonable level of contact Vanguard maintained with him during the relevant period (that is, between 20 October and 13 November), and its responses to his requests for updates and explanations. Overall, I am satisfied with the payment that has been made to Mr W for trouble and inconvenience and I do not find that Vanguard should have to do anything more in this respect.

The events, including their dates, in the SIPP switch process are confirmed in available evidence. The Origo records, communications between the parties, communications within Vanguard and communications between Vanguard and HL, all show that the relevant events

(and their dates) were/are as both parties and the investigator have addressed.

It is true that the Origo records state an expected completion date of 23 October. Vanguard received the liquidated cash on 20 October, so at that point the process was arguably on track to meet the expected completion date. However, the enquiries that it considered necessary to raise with HL had not been foreseen or factored into this expectation, so I am not persuaded to apply it so strictly. Allowance can reasonably be given for the time taken to resolve those enquiries, especially as they were part of Vanguard's overall due diligence responsibilities in the switch process.

Having said this, I accept that Mr W is entitled to challenge the assertion that the enquiries were 'necessary'. Indeed, if they were not, it could be fair to say they should not have been allowed to delay the process. As I stated above, the enquiries were about Mr W's LTA and crystallisation events in his HL SIPP. In two of its communications with him, Vanguard explained as follows –

"... the reason we have not been able to apply the funds to your account, is due the information provided to us by your previous pension provider, Hargreaves Lansdown (HL). We are not able to apply the funds based on the information which has been provided by them and we contacted HL via email on the 1st November for further clarification. We are required to receive confirmation from your pension provider of certain information so that we can ensure your pension transfer is applied correctly and that it meets our criteria for us to accept and apply the funds." [my emphasis]

and

"As your policy is in Full Drawdown we are required to be provided with the information on every benefit crystallisation event that has taken place on your account as it is a requirement that we hold this information to enable us to accept and and [sic] apply the funds accordingly. As well as how much you have used of the lifetime allowance in the past. We also require confirmation that your policy is in Flexi - Access Drawdown and the benefits were not crystallised pre the 5th April 2006 to enable us to accept them. The benefit crystallisation information provided by Hargreaves Lansdown was incomplete and was not sufficient to enable us to apply the funds to your account. We have spoken with Liam at Hargreaves Lansdown on the 7th November to chase this information and we were informed he is in return chasing his internal administration team for this information. Once we have received the required information from Hargreaves Lansdown we will verify this information and then be back in touch should we incur any further issues or once your transfer is complete. In any case I will be in touch with you in the next 7 days with any further updates I have to share with you." [my emphasis]

Mr W's arguments about information already available to Vanguard, by 20 October, and about that information addressing its enquiries are noted. However, as described above, the due diligence related requirement it sought to meet was dependent on information coming directly from HL and on that information completing what HL had previously provided. Overall, on balance and for this reason, I am persuaded that the enquiries to HL were necessary. Even if there was information in the switch application that was relevant to or addressed them. Vanguard needed to hear directly from HL, especially for HL to complete what was missing from what it had given. I do not consider it safe, without good reason to do so, to find that a firm should have done less requisite due diligence than it did in a matter like this, and in the present case I have not found good reason for such a finding.

The above finding sets an important premise. Receipt of the cash on 20 October, on its own, did not amount to Vanguard's acceptance and completion of the switch because the enquiries it made needed to be resolved, with HL, before the process could reach that point.

The communications quoted above made this clear to Mr W at the time. I acknowledge an argument that he appears to have made about the lack of logic in saying the *transfer-in* had not been accepted when Vanguard had accepted the cash and was physically holding the transferred cash as of 20 October. However, the answer to this argument can be found in something he quoted to us within his submissions. He referred to a part of the transfer agreement that stated as follows – “*Until this application is accepted and complete, Vanguard’s responsibility is limited to the return of the total payment(s) to the current scheme administrator*”. [my emphasis]

This shows that the process allowed for receipt and, if necessary, return of cash payments, prior to *acceptance and completion*. In other words, the fact that Vanguard received the cash on 20 October, on its own, did not amount to completion of the process, and there was room at the time, and thereafter, for the cash to be returned if, for example, the enquiries it addressed with HL meant it could not accept the transfer-in.

The transfer-in was preceded by Vanguard opening the SIPP account. There is evidence that was done successfully on 11 October. The obligations, from Vanguard, that Mr W has argued about relate to the transferred cash, which was the second step embarked upon. In this respect, its obligation to conduct the transfer-in efficiently and in his best interest should be separated from its obligation towards the cash asset once its transfer had been completed. The former is what the investigator primarily addressed, and from his findings on that he concluded that, but for Vanguard’s delay, the transfer-in would have been completed on 7 November.

For the reasons I explain below, I agree with the investigator’s findings. However, before doing so, it should be noted that this conclusion and the explanation above are the reasons why Vanguard’s obligation to invest the cash or pay interest on it could not have reasonably begun before 7 November. To recap – the obligation could not reasonably have arisen until the transfer-in was completed; the transfer-in could not reasonably have been completed until the enquiries explained in the quotes above were resolved with HL; Vanguard delayed in resolving those enquiries (as I address below); but for its delay they would have been resolved and the transfer-in would have been completed by 7 November; so, its obligation towards the cash asset should have begun on this date.

I echo and endorse the investigator’s revised findings on what Vanguard should have done upon receipt of the cash on 20 October. I acknowledge its reference to the five working days service level agreement it usually operates by, but in the circumstances of this case it would have been reasonable for it to take the necessary steps to pursue its enquiries at the rate of [no more than] two working days per step. It was a relatively straightforward matter, at least initially, of deciding whether to make the enquiries, then making them (if it decided to do so) and then following up on them, and given the nature of the enquiries each step could have been taken within two working days.

Vanguard did not consider the enquiries, meaningfully, until 31 October, when it sought its technical team’s guidance on putting the enquiries to HL. The team replied on 1 November and that led to the enquiries sent to HL on the same date. Its chaser on 7 November appears to have prompted HL to expedite its response – I have seen evidence of HL’s internal email instructing a particular team to deal with the enquiries and reply to Vanguard. The response was sent to Vanguard on 9 November and the transfer-in was completed on 13 November.

Based on Vanguard taking each step within two working days – but with allowance for the time actually taken by HL to respond to its enquiries (over which Vanguard had no control) – the events should have happened as the investigator summarised. Guidance from Vanguard’s technical team should have been sought on 24 October, after receipt of the cash

on [Friday] 20 October; that guidance should have been given by 26 October; the enquiries were issued on the same day the team provided its guidance, so this too would have been done on 26 October; HL took six working days to reply, so its reply would have been received on [Friday] 3 November; and Vanguard would have completed the transfer-in and executed the investment instructions (those outstanding at the time) two working days later, on 7 November.

For the above reasons, Vanguard caused a delay to the transfer-in process of four working days and the process that was completed on 13 November would have been completed four working days earlier, on 7 November, but for the delay. On this basis, I uphold Mr W's complaint.

Putting things right

My aim is to put Mr W as close as possible into the position he would be in had Vanguard not delayed completion of the cash transfer-in process by the aforementioned four working days, and had that process been completed on 7 November.

What I set out below will essentially provide Vanguard with specific orders on applying the redress the investigator proposed in his revised view. As I said above, Vanguard has agreed with the revised view. It initially conveyed what appears to have been a misunderstanding of it, but the investigator subsequently corrected that and it reconfirmed its agreement. His explanation included the following –

“... my revised opinion is that it would be fair and reasonable that the investments could have been placed on 7 November 2023.

If both parties can agree that this is a fair and reasonable outcome, then I direct Vanguard to calculate the notional value of [Mr W's] account on that basis. If there is a loss it would then take action to rectify the matter. The information used for any calculation should be provided to [Mr W] in a clear format.”

“... for clarity I'm recommending that the notional value of [Mr W's] account be calculated on the basis of the funds being in his account and the investments made on 7 November 2023. You're agreeing to look two working days back which is different. It would also fail to account for any interest he should have earned between 7 and 13 November 2023.”

The two main areas to address are trouble and inconvenience and redress for financial loss in Mr W's SIPP account (covering interest on the transferred cash, the investments that were made and his claim about lost dividends).

With regards to the trouble and inconvenience caused to him, I have explained above why Vanguard does not need to do any more than the £125 payment it has made to him.

With regards to his claim for interest on the transferred cash, I have explained above why his claim for 24 days' worth of interest is not upheld. I note that he has confirmed receipt of a payment from Vanguard that calculates as four days' worth of interest on the transferred cash. However, as set out below, Vanguard must do more in this respect.

Mr W has confirmed that the instructions to invest in the FTSE UT and Equity funds were given at the same time as he instructed the SIPP switch. The fact that Vanguard executed the investments on 13 and 14 November, immediately after completion of the transfer-in, supports his claim and shows that execution of the instruction must have been pending at that point. He has also confirmed that the instructions for the other two investments were made after the transfer-in was completed. Both the Gilt and Bond fund investments were

made on 23 November, so this too supports Mr W's description.

But for the delay, the FTSE UT and Equity fund investments would have happened immediately upon completion of the transfer-in on 7 November 2023. It is not clear why, in reality, they were executed one day after the other – the FTSE UT fund investment was executed on 13 November (when the transfer-in was completed) and the FTSE Equity fund investment on 14 November. I have not been persuaded that there was good reason for this, so I find that both investments would not have been separated by a day and that they would have happened on 7 November 2023. Therefore, the money allocated for them would have been invested immediately as the transfer-in was completed, and there would be no basis for interest on that money. It would not have been held in cash after the transfer-in was completed.

But for the delay, the Gilt and Bond fund investments would probably have been instructed four working days earlier and/or made four working days earlier, so they would have been made on 17 November 2023. This means the cash used for them would have remained a cash holding between 7 November 2023 (when the transfer-in should have been completed) and 17 November 2023, when it would have been used for both investments. It would have accrued interest during this period.

To redress any lost interest on the transferred cash asset, Vanguard must do as follows (using the correct SIPP cash account interest rate that would have applied) –

- Calculate the total interest that would have been earned from holding the money for the Gilt and Bond fund investments in cash between 7 November 2023 and 17 November 2023.
[A]
- Calculate the total of any and all interest paid on the transferred in cash asset from the point its transfer was completed on 13 November 2023 to the point(s) it was invested.
[B]
- Calculate the total of any compensation already paid to Mr W specifically for lost interest on the transferred cash asset.
[C]
- If the total of A is greater than the total of B + C, pay the difference to Mr W in compensation for lost interest. Otherwise, no compensation is due to him.

With regards to Mr W's claim for lost dividends in the FTSE UT and Equity fund investments, factsheet evidence for both funds confirms that their ex-dividend date was the same, 1 November 2023. His investments had to be made before this date in order to gain the right to upcoming dividends. As I have found above, but for Vanguard's delay his investments would have been made on 7 November 2023. Therefore, even without Vanguard's delay he would not have invested in time to gain the right to upcoming dividends. On this basis, I do not uphold his claim for lost dividends.

With regards to the SIPP's four investments, but for Vanguard's delay they would have been made four working days earlier. The investments happened as follows – FTSE UT fund on 13 November 2023, FTSE Equity fund on 14 November 2023, and the Gilt and Bond funds on 23 November 2023. They should have happened as follows – FTSE UT and Equity funds on 7 November 2023 (for the reasons given above), and the Gilt and Bond funds on 17 November 2023.

To redress any financial loss in the investments, Vanguard must do as follows –

- Calculate the total units/shares purchased in each investment on the dates they were actually purchased. [A]
- Calculate the total units/shares that could have been purchased in each investment on 7 November 2023 (for the FTSE UT and Equity fund investments) and 17 November 2023 (for the Gilt and Bond fund investments). [B]
- For each investment, if B is greater than A, compensation is due to Mr W. Vanguard must purchase the difference in unit/shares and credit the relevant investment holding, in Mr W's SIPP, with the difference in units/shares. Where B is not greater than A no compensation is due.
- For the SIPP's FTSE Equity fund holding specifically, Vanguard has previously applied redress in the form of lost units credited to the holding. Available evidence shows that 1.8171 units were credited to the holding. This should be offset against the calculation ordered above for this holding. If the calculation above results in a greater number of lost units than Vanguard has already compensated for, then only the difference should be purchased by Vanguard and credited to the holding. Otherwise, no further compensation is due for this holding.

Vanguard must provide Mr W with all calculations of redress ordered above in a clear and simple format.

If redress is not settled by Vanguard within 28 days of it being informed that Mr W has accepted this decision, it must calculate and pay him interest at the rate of 8% simple per year on the total monetary value of the redress that results from the orders above, from the date of this decision to the date of settlement. Otherwise, if redress is settled within the stated period, this provision does not apply. This provision is to compensate him for being deprived of any resulting redress if Vanguard delays in settling it.

My final decision

For the reasons given above, I uphold Mr W's complaint and I order Vanguard Asset Management, Ltd to calculate and pay him redress as ordered above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 23 October 2024.

Roy Kuku
Ombudsman