

The complaint

Mr L complains that Legal and General Assurance Society Limited (L&G) caused avoidable delays to the set-up of his fixed term annuity, leading to a financial loss. He also believes it provided him with poor service.

What happened

Mr L had a personal pension with a provider I'll refer to as provider R. In December 2023, he contacted L&G to get a quote for a fixed term annuity.

L&G issued the quote on 5 December 2023. The quote stated the following:

This quotation has been prepared assuming we will start your plan as soon as we've received everything we need to process your plan. If this is before your selected retirement date you may incur charges or lose some benefits. For more information please refer to your pension providers retirement pack.

The quote stated that for Mr L's approximate pension fund of £477K, he could receive the £16K Tax-Free Cash (TFC) lump sum he wanted. And that the remaining approximate fund of £461K would then be used to provide level income of £20,000.04 a year, with monthly payments of £1,666.67 to be made in arrears. It also stated that the plan would have a five-year term. And that the maturity value at the end of that term would be £459,091.98.

The quote went on to explain what the charges would be. It said these were included in the quoted maturity value. It also explained that L&G would pay commission to Mr L's intermediary based on the amount invested after any TFC had been taken. It said this would be £4,563.90 based on the figures quoted.

The quote had a section headed: "Important information". This stated the following:

The rate used in this quotation will be guaranteed until 19/01/2024, if all the details remain the same.

If you purchase your plan outside the quotation guarantee period, current rates will apply. As a result your actual pension payment may be less than the amount shown in this quotation.

Mr L completed an application form for the fixed term annuity on 5 December 2023.

Page 1 of the application form stated:

The rate used in your quote is guaranteed for a limited period. For this rate to apply, we must receive all funds and this application form before the date shown in the 'Important information' section of your quote. If the funds are received after this date then the rate available at that time will apply.

Later on the same page, the application form stated:

If your application takes longer than six months to complete, we'll require you to sign a new

declaration confirming the information previously provided is still valid. We will not complete the application until the new declaration is received.

Mr L signed the declaration at the end of the application form on 5 December 2023. This provided his cancellation rights, stating:

You have 30 days from the date you receive our confirmation your policy has started to change your mind

L&G said it received the application form on 8 December 2023. It said it then requested the funds from provider R on 19 January 2024. L&G said it received the funds on 24 January 2024.

Mr L said that he received an email from L&G on 31 January 2024 to say it'd received the funds on 24 January 2024. He said this was the only communication he received, after further chasing. Mr L said that the email also stated that he would receive his first income payment on 24 February 2024. And that his TFC would also have been paid by this date.

L&G said that it requested a Financial Disadvantages Review (FDR) from its actuaries on 5 February 2024. And that they completed this review on 21 February 2024.

Mr L said that he chased L&G on 26 February 2024. He said this was when he found out his purchase had been referred for an FDR on 5 February 2024, as interest rates had changed. Mr L complained to L&G the same day.

L&G paid Mr L his TFC on 25 March 2024. It also paid him £3,333.34 on 8 April 2024 in respect of his monthly income for February and March 2024.

Mr L brought his complaint to this service on 3 July 2024. He made the following points:

- L&G had taken his money after his quote had expired. He felt it shouldn't have taken his money before it was in a position of certainty. He said L&G hadn't told him what was happening, so he'd had no idea what the legal status of his funds was. He also felt he should've been informed and consulted about L&G's decision to refer his case for an FDR. And then asked if he wanted to proceed with the purchase after that review had completed.
- L&G had told him it was overwhelmed with business. He felt if this was the case, it should've put in processes and procedures to deal with the situation. And that as a minimum it should've been able to give him a timeframe for resolution.
- Mr L felt that his funds had been transferred from provider R out of a rising market. He felt this meant he'd missed out on a significant investment gain during the time L&G had delayed his purchase.
- He felt that the two income payments that should've been paid in the 2023/2024 tax year but were paid in the 2024/2025 tax year had impacted his 2024/2025 tax position.
- He felt L&G hadn't responded to his complaint in a timely manner. He said he'd had to chase them. And that calling them had been problematic due to regularly being cut off and long wait times. He also said that L&G hadn't updated him, so he'd had to spend an enormous amount of time chasing it.
- He felt L&G should at the very least waive its commission, and also compensate him

for the money he lost in the rising market.

L&G issued its final response to the complaint on 5 July 2024. It apologised for the time it'd taken for it to respond. It also apologised for the service Mr L had received, including the poor communication. It offered Mr L £750 for the distress and inconvenience it'd caused Mr L.

L&G said it would've expected to have requested the funds within five working days of its receipt of the application form, so by 15 December 2023. It said it hadn't requested Mr L's funds from provider R until 19 January 2024. It said this was 22 working days outside of its normal timescales. It therefore agreed it'd caused a delay here. It said that due to the acknowledged delay, it'd carried out an FDR. It said that but for the delay, it would've received Mr L's funds within the guaranteed period. L&G therefore said it needed to put Mr L into the correct position by applying the correct interest rates.

L&G also said that but for the delays it'd caused, and assuming provider R had taken the same time to transfer the funds, it could've reasonably begun Mr L's payments sooner.

Three days after issuing its final response letter, and after a response from Mr L, L&G corrected its original response. It stated that it'd made the first income payment to him for £3,333.34 (£2,876.34 net) on 8 April 2024. And that this payment was in respect of two backdated income payments for February 2024 and March 2024. L&G said it would also pay Mr L net interest of £37.02 to compensate him for the time he was without his payments. L&G also said it would pay Mr L net interest of £268.68 to cover the period between 20 December 2023 and 25 March 2024 to compensate him for the time he was without his TFC.

L&G said that as it'd made - and reported to HMRC - the backdated payments in the 2024/2025 tax year, it couldn't amend it and report it as paid in the 2023/2024 tax year.

Mr L replied to L&G on 8 July 2024. He didn't think its offer of £750 compensation was sufficient to cover the loss he felt he'd suffered while his money was out of the rising market, during the time L&G had been completing the FDR. He said L&G hadn't consulted him on that process, so he hadn't known about it until he'd chased. He felt L&G should either have taken his money on time or referred the FDR to him before going ahead and taking his money. He said that once the outcome of the FDR was known, he could've then made an informed decision about whether to proceed or not.

Mr L also said L&G had recently called him about his complaint. And that it'd quoted different figures during that call than those he'd now been sent. He felt he'd suffered opportunity cost as well as a financial loss, and wanted L&G to reconsider the compensation it'd offered him. He also asked it to take into account the impact on him over the 2024/2025 tax year, as he felt he'd have to pay more tax due to its errors.

L&G said that at the time of his application, Mr L's fund with provider R had been worth around £477K, which would've provided him with a monthly income of £1,666.67 for five years, TFC of £16,000 and a maturity value of £459,091.98. It said that due to its delayed request of the funds, Mr L's fund value had increased from £477K to £486,417.17, and that it'd received the latter amount on 24 January 2024. As it'd received this outside of the guaranteed period, and the interest rate then available was lower, it'd carried out an FDR.

L&G said Mr L's maturity value had been increased to £470,771.22 after the FDR, with his income and TFC remaining the same. It therefore felt he'd benefited from the higher fund value and a higher interest rate. And didn't think it'd caused him any further disadvantage.

Mr L didn't agree with L&G, for similar reasons to those made when he'd brought his

complaint to this service.

Mr L felt that L&G had failed to comply with specified FCA principles. He felt that because of the significant failings he'd identified, L&G should compensate him for his financial loss due to the rising market. And that it should also refund a portion of the commission.

Our investigator didn't think that L&G needed to take further steps to put things right. She felt that the financial redress it'd already offered was fair, and in line with what this service would've expected it to offer. She also felt that the £750 it'd offered for the distress and inconvenience caused was reasonable.

Our investigator considered Mr L's tax position for the 2024/2025 tax year. She acknowledged that if the two income payments for February and March 2024 had been made without delay, they would've been made in the 2023/2024 tax year. And that the delay could therefore affect the tax Mr L paid in the 2024/25 tax year. But she said that we couldn't know if there would be a financial loss until the end of the tax year. Therefore she felt that if Mr L did have to pay additional tax as a result of the payment being made in the wrong tax year, he should provide L&G with evidence of this at the end of the tax year. She said it should then consider that loss.

Mr L didn't agree with our investigator. He made the following points:

- L&G had taken his money after its quote had expired. He didn't think it should've done this. And felt it should've had procedures in place to stop this. He also felt that as L&G knew it was overwhelmed by business it should've considered the impact of that on its customers.
- He felt that as a quote could be provided in minutes, it shouldn't have taken so long to complete the FDR. He also felt he should've been informed and consulted about that review.
- Mr L felt that it was only because of the rising market that L&G had been able to honour and slightly better his original quote. He felt that if it'd taken his money later, it was highly likely that he would've done even better. He said he'd been denied this opportunity.
- Mr L said that although he'd asked it, L&G hadn't been able to tell him what the legal status of his money was whilst it held it. He said that this led to him thinking he'd been scammed.
- Mr L also felt there'd been a complete failure in communication. He wanted L&G to refund its commission and compensate him for the money he lost in the rising market.

Mr L also provided detailed reasons about why he felt L&G were in breach of FSA regulations.

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 agree with our investigator that the steps L&G has taken to put things

right, and the compensation it has offered Mr L are fair under the circumstances of this complaint. I know this will be disappointing to Mr L. I'll explain the reasons for my decision.

Where a business has made an offer to settle a complaint – as L&G has done – what I have to decide is whether, in all the circumstances, that offer is fair and reasonable.

In this case, L&G has acknowledged that it caused avoidable delays to the purchase of Mr L's annuity, the payment of his TFC and his first two income payments.

Mr L doesn't think L&G should've taken his money after the quote he'd accepted had expired. So I first considered whether L&G failed to follow its normal processes when it took Mr L's money even after his quote had expired.

Did L&G act outside of its normal processes?

As I noted above, the 5 December 2023 quote stated that it'd been prepared assuming that the plan would be started as soon as L&G had everything it needed to process the plan.

The "Important information" section explained that although the quote was guaranteed until 19 January 2024, if it wasn't processed before that date, the rates then applicable would apply.

Mr L completed his application form on 5 December 2023. This repeated the point that if the purchase wasn't completed before the guaranteed date, the rate then available would apply. The form also explained that unless the purchase took more than six months to complete, L&G would continue with the application.

I'm satisfied that both the quote and the application form made it clear that L&G would complete the application, even if that meant it was completed outside of the guarantee period, as long as it didn't take more than six months. I therefore can't fairly agree with Mr L that L&G shouldn't have taken his money after his quote had expired. I say this because L&G was still well within the six months the application form remained valid.

I also note that the declaration at the end of the application form, which Mr L signed, provided cancellation rights. Therefore, if he didn't want L&G to proceed with the purchase as the guaranteed date had been missed, he had 30 days from the date he received its confirmation that his policy had started to change his mind. I've not been provided with any evidence that he did this.

I acknowledge that Mr L felt L&G should've informed and consulted him about the FDR and then asked him if he wanted to proceed with his purchase after that review had completed. But I can't fairly agree that it should've followed this process. While I do agree with Mr L that L&G could've communicated better with him - I'll consider this point later in my decision - I'm satisfied that he was given cancellation rights. Therefore he could've cancelled his purchase if he hadn't been happy with what L&G set up for him.

Mr L also felt that as L&G knew it was overwhelmed by business it should've considered the impact of that on its customers. And that it should've put into place processes and procedures to deal with the situation.

While I acknowledge this point and can see that it would've been helpful if L&G had been able to take the steps Mr L has outlined, I can't tell L&G how to run its business. And I can't fairly say that it would've been possible, in any event, for L&G to have foreseen the requirement Mr L suggests in time for it to have taken the steps he's suggested.

Although I've concluded that L&G acted in line with its normal processes, I also considered whether it treated Mr L fairly. Having done so, I think that it did.

I say this because L&G was quick to acknowledge that it'd caused an avoidable delay to Mr L's purchase. In order to ensure he wasn't disadvantaged by that delay, it requested an FDR from its actuaries on 5 February 2024.

I next considered whether L&G should compensate Mr L for lost investment return.

Should L&G compensate Mr L for lost investment return?

Mr L felt he'd missed out on a significant investment gain during the time L&G had delayed his purchase. He wanted it to compensate him for this. He also felt that it was only because of the rising market that L&G had been able to honour and slightly better his original quote.

While I acknowledge these points, I have to consider the position Mr L should've been in now, but for L&G's mistakes. I then need to compare this with the position he is now in, given the steps L&G has taken to put things right.

But for the avoidable delays L&G caused, I'm persuaded that it would've received Mr L's funds within the guaranteed period of 19 January 2024. Mr L would then have purchased the annuity he'd applied for, that is, one paying him £1,666.67 monthly in arrears for five years. And then providing him with a maturity value at the end of that term of £459,091.98.

Had there been no delays, I'm persuaded that Mr L would've received his TFC on 20 December 2023, rather than 25 March 2024. And that his first income payment would've been in February 2024.

In summary, Mr L should've received £16,000 on 20 December 2023, and payments of £1,666.67 in February and March 2024. He would then have gone on to receive his maturity value of £459,091.98 at the end of the five-year term, so in February 2029.

I'm satisfied that L&G has offered Mr L redress which ensures the following:

- He effectively received his TFC of £16,000 on 20 December 2023. This is exactly what should've happened if there'd been no delays.
- He effectively received his first and second income payments on time. While I'm satisfied that L&G's offer of redress corrects its error here for the most part, I'll consider later in this decision the potential income tax impact of this error on Mr L, which hasn't yet been addressed.
- Mr L will now receive a maturity value of £470,771.22 at the end of the five-year term. This is almost £12K more than he would've received but for the delays.

I acknowledge that Mr L feels that it was only because of the rising market that L&G had been able to improve the maturity value of his original quote. I agree that this is the case. But I can also see that he benefitted from the increase in the amount L&G eventually transferred, as his maturity value will be higher at the end of the five-year term than it would've been had there been no avoidable delays. Had there been no delays, I'm satisfied that Mr L would've ended up with the maturity value of £459,091.98 that he'd applied for.

I next considered the potential income tax impact on Mr L of L&G's mistakes.

Potential income tax impact

Mr L felt that the two income payments that should've been paid in the 2023/2024 tax year but were paid in the 2024/2025 tax year would impact his 2024/2025 tax position, leading to him having to pay more income tax due to its errors.

I agree with our investigator that if Mr L does incur a tax loss because of this which he can evidence, he can take this to L&G. I would then expect it to put things right. But I can't fairly award anything to Mr L on this point before there's any evidence that he's had to pay more income tax than he would've otherwise paid but for L&G's mistake.

I finally considered the distress and inconvenience caused by L&G's mistakes.

Distress and inconvenience

Mr L has evidenced that L&G communicated poorly about what was happening. He has also explained that when he tried to call it, he was regularly cut off, and faced long wait times. This failure to communicate properly meant he didn't know the legal status of his funds, which caused him further concerns.

Mr L has also explained L&G didn't tell him that it'd missed the 19 January 2024 guarantee date. He also felt that it took too long to complete the FDR. And that the complaint process took too long.

I also acknowledge that Mr L has provided detailed reasons for why he felt L&G were in breach of FSA regulations.

I can see that the delayed purchase of Mr L's annuity has caused a significant number of concerns over a reasonable period of time. And that L&G's poor communication led to further stress and inconvenience as Mr L had to try to contact L&G to find out what was happening.

However, L&G has paid Mr L £750 compensation for the distress and inconvenience it caused. I agree with our investigator that this is fair and in line with what I would've recommended.

Overall, I can see that Mr L could've expected a much better service from L&G. But I'm satisfied that the steps it's taken to put things right in respect of his annuity, his monthly payments and his TFC are fair and reasonable. And I consider that the compensation it's paid him in respect of the distress and inconvenience caused is fair. I therefore don't require L&G to take any further steps to put things right at this time. However, if Mr L can evidence that he's had to pay additional income tax in the 2024/2025 tax year due to L&G's errors, I would expect it to compensate him for that.

My final decision

For the reasons set out above, I don't uphold Mr L's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 30 December 2024.

Jo Occleshaw
Ombudsman