

The complaint

Mr S has complained Vanguard Asset Management, Ltd trading as Vanguard (Vanguard) caused a delay in transferring his personal pension from another provider (Scheme A). This led to him suffering a financial loss as he was not able to access his tax free cash in time to meet some financial commitments.

Mr S would like to be compensated for any financial loss he has suffered as well as the distress and inconvenience that this has caused him.

What happened

I issued my provisional decision in September 2024, the relevant parts of which are reproduced below and forms part of my decision:

Mr S held a unit linked personal pension policy with Scheme A. Having held a consultation with PensionWise, he decided to transfer all his personal pension benefits to an account with Vanguard, intending to take 25% of his benefits as tax free cash (TFC). Consequently, he gave instructions to begin the transfer on 6 August 2023. Mr S was aware that Scheme A did not offer an electronic transfer system and so the transfer would rely on paper based information and authorisation. Vanguard wrote to Mr S on 9 August 2023 to confirm that it had received his instruction and would contact Scheme A. It also told him that a paper based transfer could take up to ten weeks in most cases, or longer if there were any unusual circumstances.

Vanguard subsequently confirmed to Mr S that bank verification had been completed and the request for the funds had been sent to Scheme A both via email and post on 9 August.

On 18 August 2023, Mr S contacted Vanguard to say that he had received some documents from Scheme A that he needed to complete before sending to Vanguard to forward to Scheme A. He also explained his intention was to take 25% TFC immediately before making further drawdown instructions later in the same tax year.

On 22 August, Vanguard contacted Mr S to inform him that that whilst he had specified the funds should be placed in drawdown, it clarified that this would not be possible because he had not yet begun to take benefits from his pension. Instead, his funds would initially have to be transferred to a pre-retirement account with Vanguard before being transferred on to a drawdown account before he could take his TFC. It also explained that it could take 10-15 working days to transfer from the pre-retirement account to the drawdown account. Vanguard went on to say:

Please note that our transfers team are under some high volumes at the moment and are working a backlogged queue of transfer requests from oldest to newest in order to treat our clients equally.

Mr S contacted Vanguard for an update on 31 August 2023 and explained that he needed to be able to take the TFC by 16 October 2023 to pay for a financial commitment he had made.

Vanguard replied the following day, say that it had no further information for him. It also explained that the process of taking TFC could take 15-20 days to process and to ask if there was a possibility of him taking TFC from Scheme A before the transfer took place.

Mr S replied the same day to say that Scheme A would not allow TFC to be taken before the transfer.

Mr S contacted Vanguard again on 5 September 2023 after Scheme A informed him that it had not yet received the transfer forms from Vanguard. Vanguard responded on 7 September to explain that the documents were still being processed, but the transfer backlog was continuing to cause longer than usual processing times.

Vanguard contacted Mr S on 22 September to let him know that it had escalated the priority of his transfer to speed up the process.

Following further emails from Mr S, Vanguard wrote to him on 2 October to say:

We appreciate your concern with timeframe of your transfer being processed. It is important to bear in mind that we are facing higher volumes than usual at this time, and we appreciate your ongoing patience.

We are focused on treating customers fairly and are working through each case in turn.

Please be assured that your situation is receiving attention, and that I will be in touch as soon as there is an update.

Mr S replied the same day to express his dissatisfaction with the speed of the transfer, particularly that the documents had still not been sent to Scheme A. Vanguard replied to repeat that it was handling requests in date order and that a paper-based transfer can take up to 12 weeks or longer. A complaint was logged.

Vanguard wrote again to Mr S on 5 October 2023 to confirm his complaint. It said that paper based transfers were currently taking 125 days on average and this would mean that Mr S would not receive his TFC by 16 October 2023.

Scheme A subsequently received the documents and the transfer to Vanguard completed was completed on 30 October 2023 as a cash only investment, but it wasn't until 20 November 2023 that Mr S was informed that he could now withdraw cash from his benefits.

Vanguard wrote to Mr S on 28 November 2023 to inform him that as eight weeks had passed he could now bring his complaint to this Service.

Vanguard sent its response to Mr S's complaint on 4 January 2024. It agreed that it had caused delays and paid Mr S £150 for the distress and inconvenience it had caused him, with a further £50 to reflect the delay in responding to his complaint.

Unhappy with this response, Mr S brought his complaint to this Service. He explained that the delay in accessing his TFC had led to him incurring c£325 costs in respect of a private loan he had taken out. He also felt that he had lost the opportunity to deposit funds to an ISA and had lost interest because of the delay. Further evidence provided to this Service showed that Vanguard considered that it had been responsible for a delay of 27 days to Mr S's transfer, although it had not carried out a financial loss calculation. It also showed that Mr S had not reinvested his funds after the transfer but kept them in cash based accounts.

Our Investigator reviewed all the evidence in this case and formed the view that Vanguard had offered Mr S fair compensation for the delays it had caused but did not believe that Vanguard had caused Mr S to suffer a financial loss. Unhappy with this, the complaint has now been passed to me to make a final decision.

Mr S responded to my provisional decision to draw my attention to the following:

- He and his wife both suffer from health issues. He believes that these should have led to Vanguard treating them as vulnerable customers and prioritising his case
- He still believes that he has incurred a financial loss for which Vanguard is responsible, particularly in relation to the opening of his fixed term ISA.
- He does not have records of where his funds were held so would like me to ensure that Vanguard approaches his previous scheme provider for this information.
- He believes that the payment of £200 in respect of his distress and inconvenience is fair in the circumstances.

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 intend to uphold this complaint. I have reached a different conclusion from our Investigator on how Vanguard should put things right, so I think it's appropriate to give both Mr S and Vanguard the opportunity to comment or provide further evidence before I issue my final decision.

I will explain now how I have reached my conclusions.

Firstly, I think it's important to reflect upon the role of this Service. Our role is to impartially review the circumstances of a complaint and make a decision on whether a business has made errors or treated a customer unfairly. Where it has, we expect a business to compensate a customer for any financial loss and distress and inconvenience they have suffered as a result. Consequently, I would need to find it fair and reasonable that any financial loss Mr S has suffered results from errors made by Vanguard.

To do this, I will look at the evidence that both Mr S and Vanguard have provided in response to this complaint.

Firstly, I do not think that either party disputes that Vanguard caused delays in the transfer of Mr S's benefits from Scheme A. I have reviewed the timeline that Vanguard has provided detailing the progress of Mr S's transfer. This timeline also contains Vanguard's view of when certain milestones in the process should have been completed and when those milestones were actually achieved. Vanguard has calculated this delay as 27 days, which I find to be a reasonable estimate.

On this basis, I find that if Vanguard had not caused the delay to Mr S's transfer from Scheme A, his benefits would have been transferred on 20 September 2023. As the value of his benefits may have been different on that date to that that was actually transferred to Vanguard, I find it's reasonable that Vanguard should use this date to undertake a financial loss calculation. As Mr S kept his funds in cash after the transfer, Vanguard should pay him simple interest of 8% per annum on the funds he held for the period of the delay. This delay should be based on calendar, rather than working, days, as interest continues to be paid on weekends and bank holidays. Vanguard should therefore base its calculation on the total number of calendar days that Mr S's transfer was delayed.

Turning now to look at Mr S's complaint that he suffered a financial loss as a result of not being able to take his tax free cash by 16 October 2023. Although Mr S believes that this should have been possible as he requested the transfer on 6 August, I note that Vanguard did not receive all the documentation necessary to request the transfer from Scheme A until 22 August 2023. Vanguard had informed Mr S on 9 August that a paper based transfer such as this could take up to ten weeks, although it could take longer. Ten weeks from 9 August was 18 October 2023, so it's reasonable to assume that Mr S should have realised that this deadline was already at risk.

I've also taken into account that Mr S did not tell Vanguard that he wanted to take his tax free cash by 16 October 2023 until 31 August. At this point, Vanguard had already told Mr S that his benefits would have to be transferred to a pre-retirement account prior to establishing a new drawdown account with Vanguard and told him on the 31 August that processing a TFC payment would take another 15 to 20 days to implement. It also suggested at that time that he take TFC from Scheme A before transferring his remaining benefits to Vanguard, which should have alerted him that this target was at some considerable risk.

I've also noted that Vanguard didn't at any time indicate to Mr S that it was committing or guaranteeing to being able to release his TFC by 16 October 2023. In fact, it had explained that it was suffering delays in its processing operations and was dealing with transfer requests in order of the date they had been received, to treat its customers fairly. While I do not know the reasons for the operational difficulties Vanguard was experiencing, I can't see that it was doing anything wrong in handling transfer request in the order in which they had been received.

Consequently, and disappointingly for Mr S, I don't find it reasonable to consider that Vanguard is responsible for the cost of any alternative funding Mr S had to put in place as he had not received his TFC by 16 October 2023.

I've also considered Mr S's contention that he incurred a financial loss through not being able to invest into a cash-based ISA account. I can't agree with this either. As the account Mr S invested in was a 1 year fixed interest rate account, although he started the account later than he wanted, he will still receive the same amount of interest over the life of the account, so I can't see that he has lost out here.

In terms of the distress and inconvenience Mr S has suffered as a result of Vanguard's mistakes, I have considered the evidence provided as well as the guidance our service has published to ensure consistency and fairness of compensation levels. I agree with our Investigator's view that £150 is appropriate in the circumstances of this complaint. I cannot make a comment on the additional £50 Vanguard has paid Mr S in respect of its delays to responding to his complaint.

I have carefully considered the points Mr S raised in his response to my provisional decision. In terms of his view that he and his wife should be considered to be vulnerable customers, I would agree that Mr S and his wife both show characteristics of vulnerability which Vanguard should have been aware of and taken into account when dealing with him. I can't agree, however, that this should have led to preferential treatment in terms of the processing of his transfer, as processing cases in order of the date they were received ensures that all customers are treated equally, which the Financial Conduct Authority requires businesses to do, unless there is a compelling reason. I can't see that Mr S told Vanguard about the need for him to receive his tax free cash by 16 October until the end of August 2023. He also didn't explain why his need for funds was acute and so I can't see that Vanguard did anything wrong in processing his claim in order.

I also do not agree that he has suffered a financial loss by being delayed in making an investment into a fixed term ISA, for the reasons I set out in my provisional decision. I do, however, consider that he has been unfairly deprived of access to his funds owing to the delays in his transfer being processed, which is why I consider it appropriate that Vanguard undertake a loss assessment and pay him interest at the rate of 8% simple per annum for the period of the delay from 20 September to 30 October 2023. I can assure Mr S that the responsibility for finding the information to conduct the loss assessment will rest with Vanguard and it will have to contact his previous scheme to make that happen.

Vanguard did not respond to my provisional decision and so I will now issue my final decision.

Putting things right

It is my intention and the aim of this Service that any compensation for financial loss should seek to put Mr S back into the position he would have been in were it not for Vanguard's error.

To compensate Mr S fairly, Vanguard must:

- Compare the notional transfer value of Mr S's funds from Scheme A if they had been transferred on 20 September 2023 with the amount actually transferred on 30 October 2023.

To calculate the notional value of the funds that should have been transferred from Scheme A, Vanguard will need to approach Scheme A for the necessary information.

If the notional value is greater than the actual value, there is a loss and compensation is payable.

- If there is a loss, Vanguard should transfer this amount into Mr S's pension with Vanguard to increase its value by the amount of the compensation and any interest due. 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.
- Additionally, Vanguard should add interest to the notional amount at the rate of 8% per annum simple from 20 September 2023 to 30 October 2023, the date the transfer actually took place. This is to compensate Mr S for the delay in receiving his funds caused by the delay caused by Vanguard.
- If Vanguard is unable to pay the compensation into Mr S's pension plan, it should pay that amount direct to him. But had it been possible to pay into the plan, it would have provided 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 S won't be able to reclaim any of the reduction after compensation is paid.
- The *notional* allowance should be calculated using Mr S's actual or expected marginal rate of tax at his selected retirement age.
- It's reasonable to assume that Mr S is likely to be a basic rate taxpayer at the selected retirement age, so the reduction would equal 20%. However, if Mr S 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%.

- If either Vanguard or Mr S dispute that this is a reasonable assumption, they must let us know as soon as possible so that the assumption can be clarified and Mr S receives appropriate compensation. It won't be possible for us to amend this assumption once any final decision has been issued on the complaint.
- Provide details of all calculations to Mr S in a simple, easy to understand format.
- Pay Mr S £200 in total in respect of the distress and inconvenience its errors have caused him.

Income tax may be payable on any interest paid. If Vanguard deducts income tax from the interest, it should tell Mr S how much has been taken off. Vanguard should give Mr S a tax deduction certificate in respect of interest if Mr S asks for one, so he can reclaim the tax on interest from HM Revenue & Customs if appropriate.

Actual value

This means the actual amount transferred from the Scheme A on 30 October 2023.

Notional value

This is the amount that would have been transferred if Scheme A had transferred Mr S's benefits to Vanguard on 20 September.

My final decision

I uphold this complaint. My final decision is that Vanguard Asset Management, Ltd trading as Vanguard should pay Mr S the amounts calculated as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 12 December 2024.

Bill Catchpole
Ombudsman