

## The complaint

Mr M complains that Westerby Trustee Services Limited delayed the transfer of his self-invested personal pension (SIPP) to Scottish Widows and, as a result, caused him investment loss.

## What happened

### *Historic background*

While Mr M worked at his former employer, his employer's adviser arranged a SIPP for him with Corporate and Professional Pensions Limited (CPPL). CPPL provided the advice to his employer through a sister company known simply as Corporate and Professional. The SIPP contained a Novia General Investment Account (GIA). The owner of the GIA was named as "C and P SIPP [employer's name] – [Mr M]" and the trustee noted on the GIA application was CPPL. It held investments in a range of Income, Corporate/Strategic/Dynamic Bond, US companies, European Alpha, UK Equity/Opportunities/Real Estate, Global Tech, Asia, Emerging Markets and Absolute Return funds.

In January 2014 a financial advisory business "Firm W" completed a partial asset purchase of Corporate and Professional. This did not include CPPL as the SIPP operator or trustee, but did include the acquisition of Corporate and Professional's bank of financial advisory clients. Corporate and Professional's advisory arm ceased to be authorised by the FCA in March 2014.

Firm W's position in this matter is that it had received an email from Novia on 2 April 2014 noting that as Corporate and Professional was no longer FCA authorised, all its associated accounts had been 'orphaned' and individual client Transfer of Servicing requests would be required. Firm W doesn't think that Novia received such a request in respect of Mr M or his employer for that change to take place, but it believes that Novia transferred the servicing rights for Mr M's GIA to Firm W regardless. It considers that might be connected to the fact that other former Corporate and Professional advisory clients *did* formally request the servicing rights be transferred. I've seen statements for the GIA after 2014 which refer to the investor as '[Firm W] ex C&P SIPP [employer] – [Mr M]'. It appears that this change was made at the same time as changing the listed adviser over to Firm W.

Firm W hasn't been receiving any ongoing remuneration from Mr M, his former employer, the SIPP or Novia, in exchange for providing any services. As it only considered Mr M's former employer was its client, it expected that responsibility for servicing the GIA should have remained with CPPL as the continuing administrator and trustee of the SIPP. Nevertheless when it did receive requests to effect changes to the GIAs, such as fund switches, it endeavoured to assist where it reasonably could – irrespective of the ownership position.

On 17 March 2022 CPPL went into administration and its book of SIPP clients was sold to Westerby in order to ensure continuity of SIPP administration. Westerby contacted each policyholder and asked them whether they wanted to keep their SIPP with Westerby or switch it to another provider. Mr M signed a form on 6 April 2022 indicating that he wanted to switch to another provider and asking for a transfer request form. So Westerby had been aware since that point that Mr M was looking to transfer, albeit not where.

### *Background to Mr M's transfer request*

I'll summarise key events and the position already taken on some of the matters in dispute:

**31 May 2022** - Westerby received a signed application for Mr M to transfer his pension to what he said was his employer's Scottish Widows occupational pension scheme. The acronym GPPP was used, which is commonly understood to mean Group Personal Pension Plan. He indicated on the form that he was using a financial adviser (different to Firm W). Mr M has told us that he had spoken to that adviser informally, but they weren't actually involved in arranging the transfer. That likely explains why there were some errors on the form (for example a GPPP is not actually a type of occupational pension scheme).

Mr M had ticked on the form that he wished to make a cash transfer rather than an in specie transfer, meaning the SIPP's assets would need to be sold to cash before transfer and re-purchased).

**20 July 2022** - Mr M chased Westerby having not heard back for seven weeks. As he could view the Novia policy online, his message included, *"In this time delay the Novia fund has dropped in value from the value [on 31] May of £75,314.86, to todays value of £69,652.98. I am not happy with this and feel that the delay has caused this...Will my transfer value be backdated to the value that was there when I completed the original forms in May?"*

**20 July 2022** - Westerby called Mr M back to ask if he wanted to transfer his Novia GIA in cash or re-register it in specie. Mr M indicated at that point that he did want to transfer in specie rather than in cash. Our Investigator has said that Westerby's enquiry was unnecessary, as Mr M's signed application said he wanted to make a cash transfer.

**22 July 2022** - Mr M spoke to Westerby for help in making the transfer. Westerby's notes of that call suggest it told him he would need to find out Novia's requirements himself, and Mr M responded that this was Westerby's job. Westerby then contacted Scottish Widows to request the necessary form to move the Novia GIA in specie.

**2 August 2022** - Scottish Widows emailed Mr M explaining it was unable to accept an in specie transfer.

**5 August 2022** - After Mr M got back in contact, and noting Firm W's (unofficial) role in servicing the GIA, Westerby arranged for a director of CPPL (albeit in administration) to ask Firm W to sell the funds into cash.

**25 August 2022** - Firm W updated Westerby that the sale to cash had been completed. Mr M then didn't hear further from Westerby despite chasing on 30 August, 5 and 23 September and 4 October.

**5 October 2022** - Westerby told Mr M that it was having difficulties with Firm W, who it expected to withdraw cash from the GIA into the SIPP. No evidence of correspondence between Firm W and Westerby has been provided. On 6 October the Novia portfolio (now in cash) was valued at £71,109.34. Westerby repeated this message on 13 October.

**7 November 2022** - Mr M contacted Firm W himself. Firm W responded the same day that they'd had no further contact from Westerby, but all that was required was for the SIPP trustees to issue a GIA encashment instruction to Novia. Mr M relayed their reply to Westerby.

**24 November 2022** - Mr M emailed Scottish Widows saying *"The fund in this policy has now been cashed out and sits with Novia as a cash amount now. Would it now be possible to*

*have this transferred to my current Scottish Widows pension?”. It appears this prompted Scottish Widows to contact Novia in error, believing the transfer would be to a Novia SIPP.*

**30 November 2022** – Novia responded to Scottish Widows: *“Please note that Novia Financial are only third-party administrators for this plan. Your request should be submitted to [Firm W] (ex C&P) who are the trustees.”*

(Scottish Widows didn't inform Mr M of this response until **4 January 2023**, when he updated Westerby. Scottish Widows has admitted to this service that it should have responded to Mr W's 24 November request differently, by contacting Westerby to find out if it would still accept the paperwork submitted previously and now progress this as a cash transfer. Equally, our Investigator has explained to both parties that Scottish Widows wasn't aware of the subsequent delays in encashing the Novia GIA, without which a cash transfer would not in any event have been possible.)

**14 December 2022** - the directors of Westerby sign a GIA full encashment instruction. There were ongoing discussions between Mr M and Westerby on 17-21 December.

**21 December 2022** - Westerby requested Novia to encash a number of GIAs for individuals at Mr M's former employer, including Mr M. Account numbers were provided. It provided a Power of Attorney, Transitional Services Deed and certified authorised signatory list that allowed it to operate the former CPPL SIPPs.

**9 February 2023** – £71,118.67 from the GIA was encashed into the SIPP. This took a total of 33 working days from 21 December, because on **10 January** Novia asked Westerby for certified copies of the documents, and on **16 January** it required the 'investor or wrapper ID' in order to be able to confirm whether it could accept a Westerby director's certification of the documents. The ID was provided on **23 January** followed by Novia's receipt of the posted documents on **2 February** - after it had agreed to accept these on **26 January**.

**7-8 February 2023** – Westerby chased Novia for confirmation the GIAs would be encashed.

**13 February 2023** - A file note shows Westerby attempted to call Mr M with an update and then emailed. After that point various internal emails were being exchanged at Westerby about whether it could process the transfer request without anything further from Mr M.

**9 March 2023** - Westerby emailed Scottish Widows Mr M's transfer out form and asked it for the necessary forms and bank details to make a transfer. It updated Mr M by email the following day. Westerby's email to Scottish Widows didn't specify whether the transfer was to be cash or in specie, although I note that Scottish Widows now accepts that Mr M had told it on 24 November 2022 that his funds were already in cash and it should, as a result, have known that this was going to be a cash transfer.

**6 April 2023** - Scottish Widows confirmed to Westerby that it had already declined the transfer because it was requested on an in specie basis, and had informed Mr M of this.

**21 April 2023** - Mr M chased Westerby seemingly unaware of this, but receiving no substantive response.

**27 July 2023** - Mr M chased Westerby again. He was then told he would need to reinitiate the transfer at Scottish Widows' end. Westerby would look to fast track the transfer using the Origo online transfer system. Mr M did this on 30 July, making clear that he was looking to make a cash transfer.

**31 July 2023** - Scottish Widows re-requested a cash transfer from Westerby, amending the copy it had of Mr M's Westerby transfer application form with the correct Scottish Widows

references and attaching bank details. It confirmed to Mr M that it had done this. Westerby suggests that it didn't receive this letter until **10 August 2023** and updated Mr M.

**2 September 2023** - Scottish Widows chased Westerby.

**4,7 & 26 September 2023** – Mr M chased Westerby.

**29 September 2023** - Westerby sent Mr M a SIPP bank account closure letter and pension guidance form, which Mr M returned the same day.

**9 October 2023** - Westerby issued a BACS transfer instruction after confirming Scottish Widows' bank details over the phone.

**12 October 2023** - The transfer reached Scottish Widows and I understand was immediately invested in Mr M's chosen funds.

#### *The Westerby complaint*

Mr M had complained to Westerby on 13 February 2023. Westerby's final response of 12 May only covered events up to that point. In summary, it agreed there was a delay in initiating the transfer (from May 2022) due to the large volume of queries, transfer requests and investment requests from former CPPL clients. It offered Mr M £250 in full and final settlement of this.

Westerby didn't agree it was responsible for any delays caused by third parties, including Novia's unwillingness to recognise its authority to encash the GIA. It said Novia had told it that it would only accept instructions from Firm W, and so it had got Firm W involved on that basis. This sometimes happened when companies (CPPL in this case) were in administration and likely stemmed from a lack of understanding of the administration process rather than acting in bad faith.

Mr M already hadn't accepted Westerby's response and had referred his complaint to our service on 10 June 2023, before the transfer completed. He said since he'd started trying to transfer - which he said was in 2021 - his fund had dropped by £8,000 and was (at that time) losing growth sitting in cash. He wondered what interest Westerby was earning on it and the whole matter was causing him distress.

Westerby responded to us before the transfer completed, and considered by that point that Scottish Widows was causing the ongoing delay because Scottish Widows wrongly believed Mr M was still requesting an in specie transfer.

After our investigator issued a view on the merits of the complaint, Westerby also argued that all along it had only been assisting Mr M's transfer under the transitional services deed with CPPL's administrators, as Mr M had requested to transfer out rather than agreeing to become a Westerby client. Equating the term client with 'customer' under DISP 2.7.6R(1), it said Mr M was therefore not an eligible complainant to our service.

#### *The Scottish Widows complaint*

This was raised by the ombudsman service following a discussion between Mr M and our Investigator on 12 June 2024, given that the ombudsman is able to inform the complainant that it might be appropriate to complain against another respondent (DISP 3.5.2G).

Scottish Widows' final response of 17 July 2024 agreed it had caused some of the delays, but for which it would have received Mr M's funds from Westerby on 10 February 2023 instead of 12 October 2023 (a delay of 169 working days). This was premised on Scottish Widows acting immediately to request the transfer when Mr M got in touch on 24 November

2022. But as our Investigator has pointed out, Scottish Widows was unaware at that point that Westerby would have needed to encash the GIA before the transfer could be expedited.

Scottish Widows had proposed to contact Westerby to ask it what difference that would have made to the transfer value, and use that to calculate any financial loss. It also sent Mr M a cheque for £300 for the distress and inconvenience caused.

### *Our investigations*

I gave a summary of our Investigator's initial findings in my Provisional Decision of 20 October 2025, which I won't repeat in full here. Essentially, the Investigator concluded that there was a total delay of 293 working days, of which Westerby was responsible for about 93% and Scottish Widows 7%. She set out how compensation should be calculated, assuming that the various parts of the transfer took place at earlier dates. And she also said that the amounts each firm had offered and/or paid already for distress and inconvenience were fair when considered in addition to that redress.

As the businesses and Westerby in particular didn't agree, I issued my Provisional Decision, which also addressed Westerby's objection that Mr M wasn't an eligible complainant. I found that Mr M was an eligible complainant, and agreed with the Investigator that the amounts both providers had already paid for distress and inconvenience caused were reasonable. I considered there was an overall delay of 277 working days, of which Westerby was responsible for 73.6% and Scottish Widows 26.4% - and set out how redress should be calculated for this.

Scottish Widows accepted my Provisional Decision, albeit noting that it would potentially award Mr M less redress than it had initially offered, and that it would need to have contact details for someone at Westerby in order to ensure the necessary calculation is carried out.

Westerby didn't agree with the decision. It said a number of events were missing from my timeline. I must emphasize that I'd said this was a timeline of the 'key' events. Some of the dates raised by Westerby were in fact mentioned – I've emboldened more of the dates above to show this. I've also added a couple of the points Westerby raised to the timeline, but they don't affect my conclusions other than where specifically discussed in the findings below. A summary of Westerby's other comments follows:

- I have taken an 'ambiguous statement' to use as my evidence to support Mr M's eligibility as a complainant. All clients of Westerby sign a Supplemental Deed to evidence their position as both member and Trustee of the Westerby Private Pension, and Mr M has not done that.
- It was unable to resource for anticipated increase in workload due to the CPPL acquisition due to a non-disclosure agreement. It opened up recruitment at the earliest possible point, however only one member of ex-CPPL stayed on and recruitment in the industry can take time. This didn't bring dividends until July, August and October 2022, with an existing member from its administration team supporting on an adhoc basis when capacity allowed.
- It found out in September 2022 that Novia had incorrectly renamed the GIA accounts to be in the name of Firm W, and Firm W was unwilling to assist Westerby (and its member of staff who used to work for CPPL) with changing this.
- That member of staff spoke to Novia who confirmed that all they needed was a Power of Attorney and certified signatory list, without saying that all pages of all documents needed to be certified. The approach Westerby took to certification was widely accepted.

- Although Novia asked for re-certified documents on 10 January 2023, it was unwilling to respond to Westerby's request on 11 January for an FCA-authorised director to certify the documents without being told the investor or wrapper ID. That was even though Westerby had already given the Wrapper ID on 21 December 2022, and the information being requested was not scheme specific.
- Westerby's email to Scottish Widows on 9 March 2023 asked for bank details, which it didn't receive until 10 August 2023 – after Scottish Widows had closed the transfer and Westerby had had to ask Mr M to request it again.
- If my decision remains to uphold the complaint it will require evidence of Mr M's tax status being basic rate so as to avoid any unnecessary tax implications.

### **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.

#### *Jurisdiction*

Westerby argues that Mr M remained a client of CPPL (in administration) rather than Westerby during the events under dispute. So as a result, he was not its 'customer' for the purposes of being an eligible complainant to this service under DISP 2.7.6R(1). Instead it says, he should route his complaint to CPPL - which owing to CPPL's administration may mean the Financial Services Compensation Scheme could consider it.

Westerby clearly was carrying out the regulated activities of operating (and in this case winding up) a personal pension scheme, even if it was doing so under a transitional services agreement. The administrators of CPPL do not have permission from the FCA to carry out such activities.

The word 'customer' in DISP 2.7.6R(1) isn't italicised, meaning it isn't defined in the handbook glossary, and never has been for its inclusion in DISP. Its ordinary meaning can be described in broad terms as someone to whom a service is being provided. Whilst this logically would include a firm's clients, it may include others. Westerby says that this is an 'ambiguous statement', but where a term is not specifically defined in the FCA handbook (something that I do not think was an oversight, given that it has remained each time the rules have been redrafted), I am bound to take its ordinary meaning into account.

I don't therefore think it will make a difference if I accept Westerby's argument that Mr M wasn't its client. The fact remains that it was providing its services (comprised in the regulated activities above) *to him*. It was in direct contact with him during the transfer process and, in fact, the substance of its dealings with him were no different than if he *had* been one of its longstanding clients. I'm satisfied this means that Mr M was Westerby's 'customer' for the purposes of DISP 2.7.6R(1).

Even if I'm wrong on that, I also said in my Provisional Decision that under DISP 2.7.6R(4), Mr M would be eligible to complain as a beneficiary of a personal pension scheme. The construction of DISP 2.7.6R(4) affords considerable breadth to what might be considered. It envisages more than where the complainant had a direct contractual relationship with the respondent, as that would already be covered by DISP 2.7.6R(1).

I accept there would need to be a proximate link between the subject matter of the complaint and the complainant's relationship with the respondent, as DISP 2.7.6R(4) isn't there to allow anyone to complain about anything merely by virtue of being a SIPP beneficiary. But that link is plainly met here because Mr M is complaining about the services Westerby

performed (or didn't perform) for him, knowing him to be the SIPP beneficiary, under the transitional services deed.

Westerby hasn't responded on this point, only on DISP 2.7.6R(1). I see no reason why it shouldn't stand. In conclusion therefore, Mr M is eligible to bring this complaint as a customer of Westerby under DISP 2.7.6R(1) and/or as a beneficiary of a personal pension scheme under DISP 2.7.6R(4).

### *Merits*

In my Provisional Decision I reviewed matters afresh and came to a slightly different timescale than the Investigator on when I consider the transfer would reasonably have been completed. I'll explain my reasoning again below, and refer to the points Westerby has raised in response to that decision.

I've already said I **don't** think the four months between Westerby announcing it was taking over administration of CPPL SIPPs and Mr M's July 2022 transfer request would reasonably have meant it was now 'business as usual' and Westerby would by then have absorbed the significant additional administration into its usual processes.

I said I thought it would have been difficult for Westerby in particular to strictly observe the timescales argued by the Transfers and Reregistrations Industry Group (TRIG, an industry body) which advocates each step in a step-by-step process taking three working days. Whilst the TRIG guidelines aren't regulation, I do consider them to be an indicator of good industry practice, which I'm required to take into account by DISP 3.6.4G. I would ordinarily consider them alongside the fact that any personal pension provider is obliged under the FCA Principles (PRIN) to act in their client's best interests when making a transfer, and that would mean avoiding excessive delays.

Whilst I therefore note what Westerby is now saying about the non-disclosure agreement, to a large extent I'd already taken this into account in saying that this transfer wasn't straightforward. And my observation on that included the historical separation of servicing the Novia GIA between CPPL and Firm W.

After the takeover *had* been announced, Westerby says that it couldn't pull in other staff from its wider administration team full time, as this would have caused delays with the existing clients of Westerby. I think that was a choice Westerby made, but it should have been aware of the consequences of doing so (including the potential for complaints from CPPL members such as Mr M). By its own admission shortly after receiving Mr M's transfer request Westerby would have brought three, sometimes four, members of staff onstream who could potentially deal with it.

I said in my Provisional Decision that Westerby was responsible for causing delays from 16 June 2022 onwards. That allowed ten working days for it to log Mr M's transfer request – longer than I would ordinarily have allowed in recognition of the fact that this would have come during a particularly busy period when it was asked to make multiple transfers. It also allowed sufficient time for Westerby to investigate what assets Mr M's SIPP contained and who it might need to contact (Firm W and Novia).

Westerby is essentially saying that is reasonably needed longer than this to process the transfer request. However I find that at odds with what it has already told Mr M in its final response to the complaint. It agreed there was a delay in initiating the transfer (from May 2022) due to the large volume of queries, transfer requests and investment requests from former CPPL clients and offered Mr M £250 in full and final settlement of this. That does address the distress and inconvenience, but I don't think it provides a reason to avoid carrying out a calculation to see if losses have been caused.

Notwithstanding the challenges Westerby had, and even taking into account that it was in the process of recruiting more staff, I still don't consider it was acceptable to leave many weeks to pass between steps of the transfer process. Westerby was at times only prompted into action by Mr M chasing. Looking at the period after July 2022, when I consider Westerby would have been in a better place to make resourcing decisions – if necessary using more of the staff from its core business at busy times - I consider a maximum of five working days to turn around subsequent instruction is reasonable. I consider it's fair to apply that standard to both Westerby and Scottish Widows.

I haven't heard how Mr M asked Westerby for the in specie transfer in the phone call of 20 July 2022. Westerby has since said *"You advised on this call that you wanted to transfer the investment, which was taken to mean that you wished for the investment to be re-registered."* That suggests that Westerby may have misinterpreted an ambiguous statement, and it hasn't offered any further evidence on this since my Provisional Decision. In any event I don't think whether it misinterpreted Mr M or not matters.

I say this because Mr M had also put on the application form that he was transferring to a GPPP. This is not a self-invested pension wrapper and it would be unheard of, in my experience, for such a pension to accommodate a GIA. Westerby should reasonably have known, because Mr M had already asked for a cash transfer and because he was transferring to a GPPP, that it would need to make a cash transfer.

For its own part, Scottish Widows agrees that it knew since 24 November 2022 that Mr M wanted to transfer in cash and it should therefore have provided Westerby with the missing information to make the transfer at that point. But Mr M's SIPP wouldn't in any event have been in a position to be transferred because of the difficulties with the Novia GIA.

Westerby says that it only found out about the discrepancy with the Novia account name in September 2022. It hasn't provided any information for our timeline for that month. But any delay in finding this out is potentially because on 20 July, it was unwilling to do so – Westerby told Mr M to establish Novia's requirements himself, and it tried to initiate the transfer of the GIA from Scottish Widows' end instead.

Westerby's comment doesn't make sense in any event, because it initiated contact with Firm W (in whose name the GIA was held) on 5 August, not in September 2022. I've already agreed with the Investigator that Westerby should have anticipated that proving its capacity to give instructions as the trustee of the SIPP would be necessary in order to encash the GIA in full. Westerby's comments here don't change my view.

It also hasn't demonstrated that a Novia staff member specifically said that certification of the signatory list only was sufficient. Whilst that might have been acceptable to other investment providers, it is not for me to say that Novia's requirements were unreasonable in the particular circumstances here. I note that due to the delay in Mr M's encashment request it was actually amalgamated with what looks like 17 others, and that could have given Novia cause to think more carefully about the legitimacy of the request.

I understand Westerby's point that when it asked if an FCA-authorised director could certify the documents, Novia wouldn't respond without being told the investor or wrapper ID. I haven't seen this particular correspondence, only the recertified documents (all of which were provided to this service by Novia, not Westerby). But Westerby's argument here appears to be that Novia should have paired its request up with the 21 December 2022 letter which *did* state the wrapper ID – or recognised that its request wasn't specific to any one individual.



Westerby doesn't appear to be saying that it restated the wrapper ID when it wrote to Novia on 11 January 2023. By doing that it could have ensured that Novia had all it needed to locate the accounts its request referred to. Whilst ideally Novia might have been able to do this, I don't think Novia is responsible for any failure to do so. It's reasonable to expect Westerby to clearly reference the accounts on correspondence, and I don't agree that Novia should be expected to reply in the abstract without knowing which accounts are affected.

Westerby says that despite requesting Scottish Widows' bank details on 9 March 2023 it didn't receive these until 10 August 2023 – after Scottish Widows had closed the transfer and Westerby had had to ask Mr M to request it again. I agree that Scottish Widows should have progressed the cash transfer by providing the missing information within five working days of Westerby's 9 March 2023 request. Consequently, the delay from 16 March 2023 to 31 July 2023 (when Scottish Widows actually provided this information) is Scottish Widows' responsibility.

However, accepting that things can and do go wrong, it's the responsibility of both firms in a transfer process to be proactive and unstick problems. Westerby should also have realised five working days after receiving Scottish Widows' 6 April 2023 reply that Mr M wasn't making an in specie transfer, and communicate further with Scottish Widows. That means that both firms share responsibility for the delay from 17 April to 31 July 2023.

Westerby continued to delay matters by not issuing its SIPP closure and pension guidance forms to Mr M until 29 September 2023, after receiving Scottish Widows' cash transfer request on 31 July 2023. No further comments have been received from Westerby on this.

My hypothetical transfer timescale is therefore as follows:

**16 June 2022** – Westerby contacts Scottish Widows to request any transfer documents, bank account details etc. And updates Mr M that he may also need to initiate the transfer at Scottish Widows' end (as transfers are more commonly initiated by the receiving scheme).

**23 June 2022** – Westerby receives Mr M's transfer request from Scottish Widows

**30 June 2022** – Westerby would still have arranged with the former CPPL director to request Firm W sell the funds within the GIA, as Firm W was evidently willing to accept that instruction despite CPPL being in administration.

**30 June 2022** – Westerby should nevertheless have anticipated that Firm W couldn't actually close down the GIA and send money to the SIPP bank account, because this involved selling an asset from the SIPP itself. That was the trustee's responsibility and went outside any authority Firm W ever held. Westerby has provided this service with no evidence of Novia refusing an instruction that was clearly worded on that basis. Westerby should also have anticipated that Novia was unlikely to act on its instruction unless it sent the Power of Attorney and Transitional Services Deed (on 30 June 2022).

**20 July 2022** – Firm W encashes GIA funds and notifies Westerby (based on the actual time actually taken from 5 August to 25 August – 14 working days). We happen to know the value of the GIA when Mr M emailed Westerby on 20 July 2022 was **£69,652.98**. So, subject to confirmation, this should be used as the amount that would have been realised into cash.

**27 July 2022** – Westerby asks Novia to encash the GIA. By this point Novia should already have been considering the Power of Attorney and Transitional Services Deed Westerby had sent on 30 June. I don't know precisely why Novia required documents to be certified by a Westerby director, given that Westerby were already signatories to these documents. There may have been a reason for this, and I'm not currently considering a complaint against Novia. The fall in value of Mr M's GIA about which he was concerned had in any event already happened by this point, and by Westerby contacting Novia simultaneously with contacting Firm W, about half of this delay would have been avoided.

**16 August 2022** – Novia pays out from the GIA into the SIPP cash account. This is based on applying the total time actually taken from 21 December 2022 to 9 February 2023 (33 working days) to 30 June 2022.

**23 August 2022** – Westerby confirms to Scottish Widows it is ready to proceed with the transfer. Under this hypothetical timescale, it would already have been provided with Scottish Widows bank details, and the manual corrections Scottish Widows actually made to the application form on 31 July 2023, would already have been done in response to Westerby's request of 16 June 2022.

**23 August 2022** – Westerby sends Mr M a SIPP bank account closure form and pension guidance letter, which Mr M returns the same day

**6 September 2022** (using actual timescale – 9 working days from 29 September to 12 October 2023) – BACS transfer received and reinvested in Scottish Widows funds on the same day.

The overall delay caused is therefore from 6 September 2022 to 12 October 2023. That's 277 working days (excluding public holidays). The only part of this Westerby wasn't at least partly responsible for was from 16 March to 17 April 2023: 20 working days. And both firms then share responsibility for the delay from 17 April to 31 July 2023: 72 working days.

Therefore Westerby was responsible for  $277 - 20 = 257$  working days of delay, which includes the 72 days for which it was jointly responsible with Scottish Widows. And Scottish Widows is responsible for  $72 + 20 = 92$  working days, which includes the same 72 days of joint responsibility. A fair and reasonable way of apportioning compensation for any financial loss is therefore to attribute  $257 / (257+92) = 73.6\%$  to Westerby and  $92 / (257+92) = 26.4\%$  to Scottish Widows.

### Putting things right

As I noted above, the main part of Mr M's losses seem to have been incurred before 20 July 2022 – the date by which I think it would have been reasonable for his GIA funds to have been sold. Although Mr M says he had been trying to transfer his SIPP since 2021, I don't know what discussions he'd had with CPPL about this. That would be a matter for the Financial Services Compensation Scheme. I can't reasonably hold either of the firms I'm considering complaints about responsible for delays, until he gave the transfer instruction to Westerby on 31 May 2022.

I also don't think it will be necessary to use a proxy benchmark of investment growth to work out if Mr M has suffered a loss. One of the respondents he's complained to is Scottish Widows, who can work out how much his actual funds would have grown by from 6 September 2022 to 12 October 2023. And that should be the basis of the following calculation:

1. Westerby is to verify that if the funds in Mr M's GIA were all sold on 20 July 2022, they would have realised a sum of £69,652.98 as reported by Mr M. If the amount is different, that corrected amount should be used for step 1.
2. Westerby is to establish what total amount, including further dividends (if any) would have been paid across to Scottish Widows if the amount in step 1 was then encashed on 16 August 2022 and the SIPP was transferred on 6 September 2022.
3. Scottish Widows is to adjust the sum in step 2 by the amount of growth (positive or negative) it would have achieved in Mr M's GPPP up to 12 October 2023.
4. The actual value of the transferred-in amount in Mr M's GPPP on 12 October 2023 is to be deducted from step 3.
5. If the result of step 4 is negative, there is a gain and no redress for financial loss is payable. Otherwise, the result of step 4 is to be adjusted further for the subsequent growth (positive or negative) in Mr M's GPPP from 12 October 2023 to the date of my decision.

The resulting sum should be paid in cash to Mr M, after notional reduction for the future impact of income tax he would otherwise have paid when he drew it out of the pension. This is an adjustment to ensure the compensation is a fair amount – it isn't a payment of tax to HMRC, so Mr M won't be able to reclaim any of the reduction after compensation is paid.

The notional reduction should be calculated using Mr M's expected marginal rate of tax at his selected retirement age. I've said it's reasonable to assume that Mr M is likely to be a basic rate taxpayer, so the reduction would equal 20%. However, if Mr M would have been able to take a tax-free lump sum, the reduction should be applied to 75% of the compensation; that is 15% overall.

This is an assumption I'm entitled to make, and none of the parties have said why they have reason to think it's incorrect. I don't require Mr M to prove this to Westerby or Scottish Widows because it doesn't represent tax that will actually have to be paid to HMRC – it's a notional reduction to prevent him being overcompensated.

6. Details of the calculation should be provided to Mr M in a clear, simple format. 73.6% of the resulting compensation is payable by Westerby and 26.4% by Scottish Widows.
7. My understanding is that Scottish Widows has already paid £300 to Mr M for the distress and inconvenience caused and Westerby offered £250. I consider both of these amounts to be fair and reasonable given the extent of the disruption caused by both providers to the transfer, necessitating frequent chasing and restarting of the process by Mr M.

I would remind the parties of my remarks in the Provisional Decision that it's not necessarily the case that this calculation will show there was a loss. But in order for the calculation to be carried out, Westerby and Scottish Widows will have to exchange contact details which they may do through this service.

### **My final decision**

I uphold Mr M's complaint and require Westerby Trustee Services Limited to calculate and pay him compensation as set out in the steps above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 19 December 2025.

Gideon Moore  
**Ombudsman**