

The complaint

Ms B complains about the way Vanguard Asset Management Ltd handled her request to transfer her pension to a small self-administered scheme (SSAS)¹.

What happened

Ms B held a pension with Vanguard that she was looking to transfer to a SSAS. It seems that process initially started around July 2022.

Vanguard completed some due diligence checks and recommended that Ms B seek advice from MoneyHelper (a free government backed guidance service). She subsequently attended an appointment and provided the unique reference number to Vanguard around November 2022. She again asked Vanguard to transfer her funds and close her account.

In early December 2022, Ms B complained to Vanguard about the time her transfer request was taking to process. Vanguard continued to look into things and it confirmed to Ms B later in December 2022 that it was awaiting information from HMRC.

It responded to the complaint on 31 January 2023. It recognised that it had taken longer to look into things than expected. It also assured Ms B that the transfer request was receiving its attention.

Vanguard received a further complaint on Ms B's behalf in February 2023.

It rejected the transfer on 1 March 2023 and explained the following to Ms B:

- It hadn't received a schedule of pension contributions for the relevant employment period when this was a legislative requirement.
- It had only received two payslips when it needed payslips for the three-month period prior to the transfer request being made.

It told Ms B that if she still wished to proceed and was satisfied she could meet the relevant criteria, she'd need to submit a new transfer request.

Ms B responded a few days later. She said she could send further payslips if needed and she could also set up a "*pension direct deposit*" from the employer straight away if necessary. She subsequently uploaded a further payslip.

Vanguard acknowledged Ms B's correspondence and receipt of the additional payslip around 6 March 2023. However, it clarified that if there hadn't been prior pension contributions before the transfer was instigated, then it was unlikely to have the evidence it needed to complete the transfer.

Vanguard responded to the latest complaint (made on Ms B's behalf) on 7 March 2023. Amongst other things it said that as highlighted in the scam warning letter it issued, its scheme rules only allowed it to make a recognised transfer. Therefore, it needed to be

¹ A SSAS is a type of occupational pension. It will have its own trust deed and rules, under which the sponsoring employer to the scheme appoints trustees to make decisions on the employees' behalf. Normally, each of the members will be a trustee. There will also usually be an administrator providing the services necessary to run the SSAS. The financial services regulator, the Financial Conduct Authority (FCA) doesn't regulate occupational pension schemes.

satisfied about Ms B's transfer request. And where it was unable to satisfy itself that a payment to the scheme would be used for the purposes of a registered pension scheme, it reserved the right to refuse a transfer. It referred Ms B to the 2021 transfer regulations and specifically the second condition for transfers – I say more about this below – which it said applied here. Vanguard didn't uphold Ms B's complaint. It again told her that she had six months from its communication to make a complaint to the Financial Ombudsman Service. Ms B indicated she may take things further with this Service (but didn't initially do so). She continued to communicate with Vanguard and provided further information in support of the transfer – such as evidence that pension contributions had been made and would continue to be made. Vanguard explained again, that the payments were expected to have been made before the transfer request was submitted.

As Ms B was unable to provide a valid pension contributions schedule covering the relevant period before the transfer application, Vanguard again said it couldn't facilitate the transfer. Ms B again questioned the basis for Vanguard's rejection of it.

She sent a further transfer request to Vanguard in May 2023 (although there appears to have been some initial confusion about whether this had been received). Ms B chased things up with Vanguard.

Vanguard confirmed in early August 2023 that it would review the transfer request shortly.

Following a request for an update from Ms B, on 20 September 2023, Vanguard told her it had rejected the transfer. It said:

“Unfortunately we will be rejecting your SSAS transfer request again as we have concerns regarding the SSAS provider in question. Due to the number of SSAS scams in the industry we have to undertake extra due diligence and I'm afraid we have not been able to approve your provider for transfers”.

It suggested that if Ms B no longer wanted to hold her funds with Vanguard, it could transfer them to an alternative provider of her choice.

Ms B gave some online feedback, which prompted Vanguard to log a further complaint around 25 September 2023.

In the meantime, she asked Vanguard for a list of SSAS providers it was willing to transfer a pension to. Vanguard was unable to provide a list (as it said it reviewed each transfer on a case by case basis), but it again confirmed that it had concerns related to Ms B's particular SSAS provider. Ms B questioned things further.

Vanguard responded on 25 September 2023 and said the following:

“In this instance our concerns are around [the named SSAS provider/administrator] as a provider. We have conducted due diligence and risk assessment and our decision is that we cannot authorise a transfer via this particular firm.”

Ms B complained, on 27 September 2023, why it had taken Vanguard so long to mention its concerns about the SSAS provider/administrator given the amount of time that her transfer request had been ongoing. She indicated she was angry and frustrated by Vanguard's delays.

Vanguard was unable to respond to the complaint within the required timeframe. So, it told Ms B in November 2023, that she could approach the Financial Ombudsman Service if she wished to. Ms B chased Vanguard for updates about the complaint over the following few months.

Vanguard sent a final response to the complaint on 3 May 2024. It said, again, that it couldn't authorise the transfer largely due to its concerns about the SSAS provider/administrator. But

it accepted it could have provided an update much sooner. It upheld the complaint and offered £125 for its poor service, which included £50 for the delay in providing its complaint response.

Ms B said that bank interest rates would have been much higher than what Vanguard was offering to pay her. Vanguard confirmed its offer was in respect of the poor service Ms B had received. But as there was no delay in it making a payment, it said it wouldn't be considering paying loss of interest.

In other communication, Ms B said that as she thought Vanguard would be transferring her money, she had left it in cash instead of investing it. Therefore, it had depreciated in value whilst Vanguard tried to sort things out. Given the time that elapsed and the issues she encountered along the way, Ms B decided to transfer her pension to a self-invested personal pension (SIPP) with a company I'll refer to as A with the intention of transferring her pension to a SSAS at a later point.

She brought her complaint to the Financial Ombudsman Service as she wasn't happy with Vanguard's response. It was assigned to one of our Investigators to consider. The Investigator didn't feel that Vanguard had treated Ms B fairly overall. He concluded that whilst there was no guarantee the transfer would have gone ahead, Vanguard hadn't been as clear as it could have been about the reasons for rejecting the transfer, or about which 'red flags'² applied. The Investigator recommended £150 compensation (in addition to the £125 Vanguard had already offered) in respect of the frustration caused by its unclear communication.

Vanguard accepted the Investigator's opinion, but Ms B didn't. She didn't think the total compensation of £275 (£150+ £125) was an acceptable amount, as she didn't feel it fairly compensated her for her losses. Our Investigator explained to Ms B that as she'd held her pension in cash since around the time of her first transfer request, he couldn't fairly conclude that she'd suffered an actual financial loss.

Ms B acknowledged that her pension had been held in cash. But she suggested that Vanguard ought at least to have been matching the Bank of England base rate in respect of the amount held. She indicated she was looking for compensation in the region of £4,000.

The Investigator explained that the terms and conditions of her account specifically state that Vanguard doesn't match the Bank of England base rate. And, as Ms B had since transferred her pension to another provider but still hadn't invested the funds, he couldn't say she'd have done anything differently had Vanguard reconsidered the transfer. Therefore, he felt the only matter that needed to be put right was the distress and inconvenience Vanguard had caused Ms B.

Ms B didn't agree, so she asked an Ombudsman to consider the matter afresh. It's been passed to me to decide.

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.

It's evident to me that the issues surrounding this pension transfer have been a source of great concern and frustration to Ms B. And given it was Vanguard that was responsible for assessing the pension transfer, I can appreciate why she might think it is responsible for any losses she feels she's suffered.

Before I address the issues at the heart of this complaint, I'll say first for completeness, that like our Investigator, I'll also be focusing solely on the handling of the pension transfer that

² As I explain below where a red flag exists the transferring scheme, in this case Vanguard, must refuse the transfer.

was submitted around May 2023. That's because Ms B didn't complain within the appropriate timeframe in order for us to be able to look into matters to do with the earlier transfer request.

The rules we must follow are set out in the Dispute Resolution Rules (DISP) of the FCA handbook. The rule that applies here is DISP 2.8.2 which says:

"The Ombudsman cannot consider a complaint if the complainant refers it to the Financial Ombudsman Service:

(1) more than six months after the date on which the respondent sent the complainant its final response, redress determination or summary resolution communication";

Ms B made a complaint to Vanguard about its handling of the first transfer request (submitted around July 2022). And it told her, in responses dated 31 January 2023 and 7 March 2023 that she had six months to make a complaint to this Service if she remained dissatisfied. The March 2023 response clearly followed a more detailed investigation by Vanguard. So, assuming it intended that to be its final say on the matter (which appears to be the case), Ms B had until 7 September 2023 to complain to this Service. But she didn't do so. Instead, she remained in touch with Vanguard. That means I do not have the power to make findings on that part of her complaint.

Ms B put her concerns to us in May 2024, by which time Vanguard had rejected a further pension transfer request. It had also responded to a further complaint from Ms B on 3 May 2024. So, as she complained to this Service within six months of that particular complaint response, I'm satisfied I have the authority to deal with the issues covered by it within this decision.

I'll now go on to consider the merits of Ms B's complaint.

The regulations and guidance in place at the time of Ms B's transfer request.

Over time, there have been renewed expectations placed on businesses like Vanguard to carefully consider any transfer requests they receive in the wake of increasing pension scams. Indeed, if a business is found not to have exercised due care and attention when approving a transfer, they could well be held responsible for any losses the member suffered.

The Pensions Regulator (TPR) and other bodies have developed guidance, the purpose of which is to highlight factors that might indicate a member's pension is at risk of a scam. One such piece of guidance is the Code of Good Practice "Combating Pension Scams" produced by the Pensions Scams Industry Group (PSIG), which is endorsed by TPR and other bodies, including the FCA. The Code is voluntary and is intended for use by providers and others by suggesting the type of due diligence to follow when considering a transfer request. Over time, it's been updated to ensure businesses stay abreast of emerging pension scams.

In late 2021 The Pensions Schemes Act 2021 was introduced along with The Occupational and Personal Pension Schemes (Conditions for Transfers) Regulations 2021. Those gave pension providers and others additional responsibilities to ensure that certain conditions were met in order for a transfer to go ahead. Where a statutory right to transfer exists, businesses are generally expected to complete the transfer process within six months where possible.

In practical terms businesses like Vanguard were expected to respond if they thought there were risk factors present when considering a transfer request. Any additional steps taken were expected to be reasonable and proportionate and were intended to act as an important safeguard to the member.

In addition to the above, Vanguard had other obligations in line with the FCA Principles (PRIN) and the Conduct of Business Sourcebook (COBS). Those include, but are not limited

to, Principle 2, which says “*a firm must conduct its business with due skill; care and diligence*”

This is the backdrop against which I’ve considered whether Vanguard acted fairly and reasonably.

The refusal to transfer

Ms B’s complaint to the Financial Ombudsman Service centres on what she sees as being Vanguard’s unreasonable actions, including its refusal to transfer her pension.

TPR’s guidance says that there are some receiving schemes to which a statutory transfer can proceed with no further checks (condition one). Those include public service schemes authorised master trusts and collective defined contribution schemes. The scheme Ms B wanted to transfer to wasn’t one of those, so, according to the guidance, Vanguard had to carry out further checks. I’m satisfied, from the evidence I’ve seen, that’s what Vanguard did.

For instance, one of the things Vanguard had to satisfy itself about was that Ms B’s transfer request met condition two – which involved checking for an employment link; overseas residency and red and amber flags.

That’s because, a lack of employment link or an overseas residency (where applicable) might constitute an amber flag³. A red flag might be triggered where a member has been persuaded to transfer their pension following unsolicited contact or has otherwise been pressured to make the transfer (there are other examples of red flags within the guidance). If a provider doesn’t feel able to reach a decision, they can make a formal request for further information from the member. After making this formal request, the guidance says that they must then decide if red flags are present. If they decide there are, they *must* refuse the transfer.

The guidance talks about the provider needing to reach a decision on the balance of probabilities. That is, it needs to have a reasonable foundation, on all the evidence and information available, that there is a red flag present. It doesn’t need to prove this conclusively. I think that’s an important point to make here.

And whilst it’s not for me to say that Vanguard should definitely have approved Ms B’s transfer, I need to be satisfied that it otherwise acted fairly and reasonably overall – particularly in light of what the guidance and regulations say.

For the reasons I’ll now outline, I’m not persuaded, on balance, that Vanguard did enough to demonstrate there was a red flag present in Ms B’s case. I say that largely because although there are a number of potential factors that might constitute a red flag, it’s not completely clear to me which flag/flags Vanguard was concerned about. For instance, in addition to the red flags I mentioned above, another might be where a member fails to provide information that a provider asks for. But I can’t see that this applies in Ms B’s case, as she seems to have responded to any requests for information that she received from Vanguard. And, it’s not completely clear which of the other red flags might have applied either.

It’s evident though that Vanguard had concerns about the specific SSAS provider/administrator involved. And whilst signs that a provider/administrator might be involved in a scam is something that Vanguard definitely needed to be on the look out for as part of its due diligence, as far as I can tell, it doesn’t in itself constitute a red flag. And even if Vanguard’s concerns about the SSAS provider/administrator had formed part of any wider concerns it may have had (if applicable), it’s still expected to demonstrate that it had a reasonable foundation, on all the evidence and information available, to believe there was a

³ Where an amber flag is present the consumer concerned must seek advice from MoneyHelper prior to any transfer.

red flag present. Again, I'm not persuaded, based on the evidence I've seen, that Vanguard has done enough to demonstrate that. So, I can't say it went about things fairly here.

And I think there were other shortcomings too in the way that Vanguard went about things. One of the expectations set out in TPR's guidance is clear communication. It says:

"If you're not able to reach this decision based on the information available, you may formally request further information from the member. After making this formal request, you must decide if you have reason to believe that any of the red flags are present. If you decide you do, you cannot proceed with a statutory transfer."

"It's important that you clearly communicate with the member that their transfer has been refused because there are circumstances present that remove the statutory right to transfer and that the member is at risk of being scammed."

Again, whilst not explicitly stated, Vanguard appears to have been of the opinion that a red flag was present such that Ms B's statutory right to transfer was removed. In those circumstances it was important that Vanguard clearly communicated with Ms B so that she understood the basis for its decision. But based on what Vanguard said, I'm not persuaded that Ms B would have fully understood Vanguard's position, or how it had arrived at it in light of the guidance. I say that, again, because the only factor Vanguard mentioned was that it had concerns about the SSAS provider/administrator. But as I've already said, that in itself isn't a red flag referred to in the guidance.

I think there were also other factors that meant it was all the more important for Vanguard to communicate with Ms B as early and as clearly as possible. I'm not directly assessing Vanguard's actions in relation to the first transfer request in this decision. But some of what happened is relevant context. As far as Ms B would have been aware, Vanguard's main concern in connection with the first transfer request was whether she could provide the relevant earnings and pension contribution information. I've seen no suggestion that Vanguard told her it also needed to satisfy itself about the SSAS provider/administrator, even though that was something it appeared to be looking into as part of its due diligence checks.

So, by the time she submitted her second transfer request (having previously submitted the other information Vanguard needed to see) referencing the same SSAS provider/administrator involved all along, I imagine Ms B thought things would be much more straightforward. But it took Vanguard until September 2023 (some months after she'd submitted the second transfer request) to tell Ms B that it had concerns about the SSAS provider/administrator and that it would again be rejecting the transfer. I can entirely appreciate Ms B's frustration here. And given that this was the first time she'd apparently heard of this concern, it does explain why she questioned Vanguard's failure to mention this previously. Further, in the absence of a more timely and clearer explanation about its concerns, I can appreciate why Ms B might have formed the opinion that Vanguard was making the rules up as it went along and making excuses not to transfer her money.

I've thought about what else can be done to put these things right now. In other circumstances I might have directed Vanguard to reconsider the transfer. However, as Ms B has since transferred her pension to another provider, that is no longer a viable option to help resolve this particular complaint. So, below I've set out what Vanguard needs to do to recognise the impact of its shortcomings on Ms B.

Did Vanguard cause Ms B to suffer a financial loss?

Ms B clearly thinks that Vanguard is responsible for the financial loss she suffered whilst her transfer requests were being assessed. As I understand things, this loss largely stems from the fact that she held her funds in cash whilst Vanguard completed its action.

I can appreciate that Ms B may well have expected her transfer requests to proceed without a hitch and she therefore made preparations to move her funds into cash in the meantime. But from what I can tell, that was a decision that she took herself and wasn't something that Vanguard was directly involved in.

And whilst I accept that things took longer than Ms B expected and that Vanguard's decision making and communication weren't always as clear as Ms B might have expected, I can't fairly say that it's responsible for any financial loss that Ms B feels she's suffered. I also have to keep in mind that during the time that the transfer requests were being assessed, it was open to Ms B to reinvest her funds if she felt they were at risk of depreciating in value. I've seen no evidence she did so. So, again, I can't fairly say Vanguard is responsible for the losses Ms B feels she's suffered. That means I also won't be directing it to pay the amount of interest Ms B is seeking.

Does Vanguard need to do anything else to put things right?

Again, I can't say Vanguard should definitely have approved the transfer. So, I have to keep in mind that, even if things had gone more smoothly, there's no guarantee Ms B would have achieved the outcome she was hoping for. So it's still entirely possible she'd have experienced some level of disappointment and frustration.

But I do need to recognise the added frustration that Vanguard caused Ms B through its unclear decision making and poor communication.

I've thought carefully about all of this. To recognise the impact its shortcomings had on Ms B I'm going to direct Vanguard to pay an additional £150 compensation in addition to the £125 it has already paid (making a total compensation payment of £275). I'm satisfied a payment at this level fairly recognises the frustration that Ms B felt in connection with the handling of her second transfer request, including the actions I've described above. That's the amount that Vanguard should pay now if it hasn't already done so.

My final decision

I uphold this complaint. I direct Vanguard Asset Management Limited to Pay Ms B £150 in compensation (on top of the amount it awarded itself) if it hasn't already done so

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms B to accept or reject my decision before 23 December 2025.

Amanda Scott
Ombudsman