DRN-4371905

The complaint

Mr W complains that True Potential Investments LLP (TPI) caused avoidable delays to the transfer of his personal pension to his annuity provider. He says this led to a financial loss.

What happened

Mr W had a personal pension with TPI. I understand he'd been with TPI since May 2018. He had an arrangement with TPI to receive a monthly Tax-Free Cash (TFC) payment until he'd taken 25% of his fund value as TFC.

Mr W said that investment performance issues with TPI led to him deciding to leave it and transfer to a fixed term annuity with another provider. He arranged for his pension funds to be encashed on 5 October 2022. And contacted his annuity provider on 26 October 2022. He then posted his application.

Mr W said the annuity provider started the transfer process on receipt of his application on 31 October 2022. And that it used the Origo system. He said TPI failed to respond to the annuity provider's request to transfer the funds. So it sent another request on 18 November 2022. He said that TPI finally replied to his annuity provider on 25 November 2022 through the Origo system to say that some TFC remained which would be lost upon transfer.

Mr W said his funds weren't transferred until 14 December 2022. He complained to TPI. He felt that it'd caused avoidable delays to his transfer. And that as his pension had already been encashed, he felt his transfer should've been carried out much more quickly. He said that the delays had led to his annuity quote expiring, despite his annuity provider offering a generous 40-day guarantee to its quotes. He said the new rate he'd been given meant he'd lost £28,221 from his investment's maturity value. He wanted TPI to reimburse him for the losses its delays had caused.

TPI said the following had taken place:

2 November 2022 – It'd received a transfer request from Mr W's annuity provider via Origo.

11 November 2022 – It'd reviewed the request. It notified Mr W's annuity provider about his monthly TFC payments and asked it how he wanted to proceed given they would be lost upon transfer.

14 November 2022 - Mr W's annuity provider confirmed to TPI that Mr W was happy to proceed with the transfer, without providing an instruction for the TFC.

16 November 2022 - TPI said it rejected the transfer because Mr W's annuity provider hadn't provided a "Stronger Nudge" note. And told it that it would need this in order to proceed with the transfer.

18 November 2022 - Mr W's annuity provider resubmitted the transfer request and provided TPI with the "Stronger Nudge" note, confirming that advice had been provided.

25 November 2022 - TPI reviewed the case. As there was no reference to the original query

about his remaining TFC payments, it asked Mr W's annuity provider for clarification to see if anything had changed.

1 December 2022 - Mr W's annuity provider confirmed that he did want to take the TFC to ensure it wasn't lost.

7 December 2022 - TPI processed the request and confirmed this with Mr W's annuity provider.

12 December 2022 - Mr W's annuity provider confirmed receipt of the funds.

I understand that Mr W's original fixed rate annuity quote expired on 30 November 2022. And that he asked for a new quote on 7 December 2022. But that the new quote provided him with a maturity value after 10 years that was more than £28,000 lower than the previous quote had provided.

TPI issued its final response to the complaint on 8 March 2023. It didn't think it'd done anything wrong. It said the transfer had taken a little longer than it'd usually expect, but that this was because Mr W's transfer request had been submitted with missing information about his monthly TFC. It said it'd needed to ask Mr W's annuity provider how to proceed, or he could've lost £3,019. But that Mr W's annuity provider had responded without addressing the TFC issue.

TPI also said that it usually needed a "Stronger Nudge" note. But that as Mr W's annuity provider didn't confirm if the "Stronger Nudge" note should apply, it rejected the transfer request. And that when – two days later - the annuity provider had confirmed that no "Stronger Nudge" note was needed as there was an adviser involved, it still couldn't progress the transfer as the annuity provider had yet to respond to its original query about Mr W's remaining TFC payments. TPI said that once it'd received a response about this, it processed the transfer.

Mr W was unhappy with TPI's response, so he brought his complaint to this service in May 2023. He said he'd like to be reimbursed for £28,221, the difference between the two maturity proceeds of the fixed term annuity quotes he'd received. Mr W felt that TPI should've communicated to him about what was happening. He said that despite being its customer, it'd never contacted him through the whole transaction. He felt that TPI should've contacted him when it'd been waiting for a reply from his annuity provider about his TFC.

Our investigator asked TPI to confirm its standard time frames for a transfer like Mr W's. TPI said that once it'd received all the information needed to process a transfer and make the payment to the new provider, its standard time frame was 10 to 15 working days. It said that in Mr W's case, once it'd received the correct information needed, it'd processed and paid the transfer within four working days.

Our investigator also asked TPI about Mr W's concerns about the lack of direct communication with him during the transfer. It said that it would check with its clients if a transfer out request was a legitimate request. But that it understood that the annuity provider would keep Mr W updated about his transfer in. It also said it would answer any of its clients' questions. But that it would keep them updated throughout a transfer process through the client site and/or emails of any trades, disbursements and requests for data.

Our investigator didn't consider that the complaint should be upheld. He said he understood why Mr W held TPI responsible for the delays to his transfer to his annuity provider. But he didn't consider it was responsible for any unreasonable delays. He felt that once TPI had all the information it needed, it'd completed the transfer within its usual service standards. And that it'd acted reasonably when it'd asked the annuity provider for the required information it didn't yet have.

Our investigator also felt that although Mr W had wanted to receive updates from TPI during the transfer, his advisers had told him how the transfer process would work at the start. They'd told him that his annuity provider would need to contact TPI directly about the transfer. And that if Mr W had wanted updates, he would've expected him to ask his annuity provider as it was handling the transfer on his behalf. He also felt that TPI's explanation of its communication role in the transfer was what he'd expect. He said that as it wasn't dealing with Mr W directly, he wouldn't expect it to provide regular direct updates unless Mr W had asked for them. He said that if Mr W had asked TPI for direct updates that weren't provided, he should send the relevant evidence for his consideration.

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

- TPI had received the Origo transfer instruction on 2 November 2022, but as there'd been no instruction for the monthly TFC Mr W had been receiving, it told the annuity provider on 11 November 2022. Mr W felt TPI should've told him about this.

Although our investigator felt that TPI had acted in Mr W's best interests when it'd asked the annuity provider to consider the TFC, as it would otherwise have been lost, Mr W felt that he'd lost much more by losing the annuity rate. He said TPI also hadn't advised him that the TFC would be lost on transfer. And that he didn't understand how it would be lost.

- The annuity provider had confirmed Mr W was happy to proceed with the transfer on 14 November 2022. But TPI had rejected it on 16 November 2022 because the "Stronger Nudge" note hadn't been provided. Mr W said he'd been unaware that there was an issue with the "Stronger Nudge" note.

- TPI had eventually processed his request on 7 December 2022, with the funds reaching the annuity provider on 12 December 2022. Mr W felt that it shouldn't have taken five days to simply transfer cash.

- Although our investigator felt that TPI had completed the transfer within its service standard, Mr W felt that his transfer should've been carried out much more quickly, because his funds had already been encashed.

- Mr W felt that TPI should've advised him directly if there were any problems with his transfer, rather than simply dealing with the annuity provider. He didn't think it was good enough for TPI to say it would answer any questions he might ask it, but instead felt it should've been actively updating him. And he said that when he had called TPI for updates, it hadn't mentioned any problems with the annuity provider.

Our investigator asked TPI for further information so he could address Mr W's further concerns. He asked it what information it'd requested from the annuity provider in the first instance. TPI provided all of the notes and instructions it'd sent to the annuity provider. These confirmed the timeline it'd previously provided. And showed that the annuity provider didn't initially respond to TPI's question about the TFC.

Our investigator also asked TPI why it'd taken it from 2 November 2022, when the annuity provider had made its initial transfer request, until 11 November 2022, for TPI to request the missing information, given Mr W's pension was already in a cash account. TPI said that it had processed the initial request within seven working days, which was its Service Level Agreement (SLA) for cases to be reviewed. It said that other clients' transfer cases had been ahead of Mr W's in the queue. And that to treat its customers fairly, it worked in date order.

TPI also said that even though Mr W's pension was already in a cash account, it still needed 10 to 15 working days to process the transfer, given it dealt with all cases in the order they were received.

Mr W also asked his annuity provider for a timeline relating to his transfer. He shared this with this service. Our investigator confirmed that it agreed with the timeline provided by TPI.

Our investigator didn't think it would've been fair for TPI to have dealt with Mr W's transfer request out of turn. So he still felt that it hadn't done anything wrong.

As agreement couldn't be reached, the complaint has come to me for a final decision.

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'm not going to uphold it. I understand this will be disappointing for Mr W. I'll explain the reasons for my decision.

I first considered whether TPI caused any avoidable delays to the transfer.

Did TPI cause any avoidable delays to the transfer?

Mr W felt that TPI hadn't advised him that his TFC would be lost on transfer. He also felt that it hadn't acted in his best interests when it'd rejected the transfer request because it hadn't received a response from the annuity provider about his TFC. He said this was because he'd lost much more by losing the annuity rate.

The evidence shows that TPI received the Origo transfer instruction on 2 November 2022. Its SLA for reviewing the request was seven days. And it picked up the request for review on 11 November 2022, which is within that SLA.

As the request didn't contain an instruction for the monthly TFC Mr W was receiving, without which Mr W was in danger of losing his remaining TFC of over £3,000, TPI asked the annuity provider how Mr W wanted to proceed. Although the annuity provider replied to TPI on 14 November 2022, it didn't provide the instruction it needed for his remaining TFC.

TPI then rejected the transfer on 16 November 2022 because the annuity provider also hadn't provided a "Stronger nudge" note. As our investigator noted, this is something all pension providers must consider. Mr W said he'd been unaware there was an issue with the "Stronger Nudge" note. And although Mr W's annuity provider then provided TPI with the information it needed about the "Stronger Nudge" note on 18 November 2022, it still didn't respond to the question about the remaining TFC. So, when TPI reviewed the case again on 25 November 2022 – again within its SLA – it had to ask the annuity provider once again how Mr W wanted to proceed.

Mr W's annuity provider eventually provided a new instruction – different from the original one it had sent – on 1 December 2022. It confirmed that Mr W did want to take the TFC to ensure it wasn't lost. TPI processed the request on 7 December 2022. But Mr W felt that it shouldn't have taken so long to simply transfer cash.

TPI didn't consider that it'd done anything wrong when it'd asked the annuity provided to confirm what Mr W wanted to do about his remaining TFC. It noted that Mr W had in the end confirmed he did want to take his remaining TFC. And that if it hadn't clarified this point with his annuity provider he would've lost the TFC amount available to him.

I acknowledge that Mr W felt that TPI hadn't acted in his best interests when it'd flagged the potential loss of his remaining TFC. I can understand why he now considers this action caused him an even greater loss, and therefore wasn't in his best interests. But I can't fairly agree.

I say this because if TPI had simply processed the transfer on 18 November 2022, when it'd received the "Stronger Nudge" note confirmation, Mr W would've had the risk of losing £3,019.05 of TFC. TPI had no way of knowing that if Mr W's annuity rate expired, the next one would be worse. So it asked the annuity provider one more time on 25 November 2022 as it wanted to prevent Mr W suffering a known loss. Mr W did then confirm that he wanted to take his TFC, so changed his instruction.

But I'm satisfied that even if Mr W hadn't decided to change his instruction, TPI acted in his best interests. It was trying to save him from a known loss. And it couldn't have known that in doing so, his transfer might go beyond the expiry date of his quoted annuity rate. In any event, and even if we take 18 November 2022 at the point that TPI should've had everything it needed to process the transfer, it still completed it within its 10 to 15 working days service standard, which allowed it until 9 December 2022 to complete the process.

I also acknowledge that Mr W felt his transfer shouldn't have taken so long as his funds were already in cash. But TPI has explained that it processes requests in the order they reach them. I consider this is a fair way to handle requests, which ensures that customers are treated fairly. In any event, the evidence shows that as soon as TPI had received all the correct information it needed on 1 December 2022, it'd processed and paid the transfer within four working days.

Therefore I can't reasonably say that Mr W's transfer request should've been completed more quickly.

I next considered the communication issues Mr W has noted.

Communication about the transfer

Mr W felt that TPI should've advised him directly if there were any problems with his transfer, rather than simply dealing with the annuity provider. He didn't think it was good enough for TPI to say it would answer any questions he might ask it, but instead felt it should've been actively updating him. And he said that when he had called TPI for updates, it hadn't mentioned any problems with the annuity provider.

I take Mr W's point here. I can see that if the usual process had been to involve him in the transfer, it might've been possible to realise that the annuity provider hadn't answered TPI's questions earlier. But that wasn't the usual process. So it wouldn't be fair or reasonable for me to conclude that TPI did anything wrong here.

I say this because from what I've seen, the transfer process was explained to Mr W at the start. I can see that Mr W expected TPI to proactively update him, but this wasn't its role in his transfer. I also consider that it was reasonable for TPI to expect the annuity provider to keep Mr W updated about his transfer in.

In summary, I've seen no evidence that TPI caused any avoidable delays to the transfer process. Nor have I seen any evidence that it fell short of its communication requirements. So I don't uphold the complaint.

My final decision

For the reasons given above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 9 November 2023.

Jo Occleshaw
Ombudsman