

The complaint

Mrs H complains that Virgin Money Unit Trust Managers Ltd (“VM”) has not facilitated her transferring her pension fund to a different provider.

Mrs H’s husband made an identical complaint to VM about his contact with it. But I’ve omitted references in this decision to any plan held by Mr H with VM, as the complaints he has made about VM are being dealt with separately. And, for ease, I will mostly refer to any actions and comments as those of Mrs H.

What happened

The details of this complaint are well known to both parties, so I’ll just provide an overview of relevant key events here.

Mrs H had a personal pension plan (PPP) with VM. Mrs H phoned VM at the end of October 2021 to discuss her PPP but was unable to get through. She made a complaint to VM.

Mrs H emailed VM on 19 November 2021 as she hadn’t received a response to the complaint she made in October 2021. She said she wanted to transfer her pension fund from VM to a different pension provider and asked for transfer paperwork to be sent to her. Mrs H again contacted VM on 24 and 30 November 2021 chasing the transfer paperwork.

Mr H phoned VM on 9 December 2021 and explained that he had already asked for transfer paperwork by post, but these hadn’t been received. The VM adviser apologised and told him the transfer paperwork would be sent out. VM posted the pension transfer forms to Mr H, but not Mrs H, on the same day. These included a Transfer Out Request form and a Transfer Out Warranty.

Mr H phoned VM on 2 February 2022 but its computer systems weren’t working as maintenance work was being carried out.

Mrs H complained to this Service in February 2022. She raised a number of complaint points, and those relevant to the transfer of her PPP to another provider are listed below. Mrs H said that:

- VM’s operating systems were down on one occasion when it was contacted by phone.
- VM provided conflicting information about whether Mrs H should send completed transfer forms to VM or the new provider.
- VM wouldn’t accept email requests to transfer funds as a wet signature was needed.
- VM couldn’t guarantee how long the transfer process would take by post, and the value of the fund wouldn’t be known when a request was made.
- VM didn’t provide cash accounts to hold funds while the transfer took place.
- Mrs H said her pension funds devalued considerably while she waited for VM to contact her and she lost out on a transfer incentive from another pension provider.

Other complaint points Mrs H brought to this Service in February 2022, about the difficulties she had trying to contact VM to arrange an internal fund switch, have been dealt with separately. The complaint points, listed above, that Mrs H brought to this Service in February 2022 about the external transfer process hadn't previously been raised with VM. This meant VM hadn't been given an opportunity to respond to these points. So Mrs H was asked to raise her complaint about the external transfer process with VM before this Service would look into the various complaint points raised.

So Mrs H, jointly with her husband, contacted VM in January 2023. She raised several complaint points and posed several questions, which were:

- VM should have allowed pension transfers to be made using the Origo system.
- VM hadn't responded to a question about whether it accepted signed letters giving instructions to transfer funds.
- Mrs H said VM should follow her instructions – she didn't want to rely on the postal system – about how her pension funds should be transferred.
- Mrs H asked whether VM would withhold funds indefinitely if the transfer paperwork wasn't completed.
- Mrs H wanted VM to allow more than one transfer out of her pension fund.
- Mrs H asked whether the fund transfer value was calculated on the day instructions were received by VM or a date in the future.
- Mrs H thought the plan terms, specifically section 16b, showed her funds should be held in a cash account once she provided transfer instructions.

VM didn't respond directly to Mrs H and only provided a response to her husband in relation to the complaint. Its response said:

- It was not registered for electronic transfer services, although this may change in the future.
- In order for Mr H to begin the transfer process, a 'Request for Transfer of Benefits' form needed to be completed and the new provider needed to complete a 'Transfer out Warranty' form.
- If the transfer paperwork was not completed funds would be held by VM indefinitely.
- With regard to the calculation of the fund transfer value, VM pointed to the policy term that said *"Once we receive notification from your new pension provider, and both parties have all the information needed, we'll move your pension to them using the unit price on the transfer day."*

VM later provided a second complaint response letter. This said:

- Clause 16b of the pension terms enabled VM to transfer pension funds to another HMRC registered scheme in certain limited circumstances. It said the clause didn't enable VM to transfer the pension funds themselves. The clause could be relied on in the event that VM intended to cease providing the VM stakeholder pension, or pensions in general.

Mrs H wrote to VM in mid-March 2023 and told it that it had responded only to her husband in relation to the complaint that they made jointly in January 2023. She said that she wanted VM to transfer her pension to a named provider, as per clause 16b of the terms and conditions. She requested a final response to her letter.

Mrs H was in regular contact with this Service and said:

- Since she raised her complaint, her PPP has suffered a paper loss of around £30,000.
- She wanted to transfer her pension funds using the Origo system as this takes less time.
- The PPP terms indicated the pension funds should have been transferred, and she had a right to choose the method of transfer.

Our Investigator didn't uphold Mrs H's complaint. She said VM did not need to complete a transfer based on the signed letter submitted by Mrs H, as it had a duty to safeguard its customers from scams and fraud. She said it was industry wide practice to complete and return certain forms, so that businesses could conduct necessary checks before the transfer was carried out. Our Investigator said VM had made it clear Mrs H could have transferred her pension, free of charge, at any time. She also thought VM had explained the transfer process clearly.

Our Investigator said VM can't be compelled to use a particular electronic transfer system, and that Mrs H's pension will remain invested until the day of transfer. She also said that term 16b of the plan terms and conditions, which Mrs H thought showed that VM should protect the value of her pension while the transfer was ongoing, was not relevant in these circumstances.

Mrs H didn't agree with what our Investigator said and so this came to me for a decision.

I issued a provisional decision on 24 August 2023 and said that while I wanted to expand on the reasoning provided by our Investigator, I intended to come to the same conclusion and not uphold Mrs H's complaint. I gave both parties the opportunity to respond.

VM responded and said it had nothing further to add at that point.

Mrs H responded to my provisional decision and didn't agree with the outcome. She made a number of comments. In summary, these are:

- Mrs H provided a copy of PPP terms which were different to those I relied on in my provisional decision.
- Mrs H felt that VM's terms show it operates a cash account for consumers' funds.
- Mrs H forwarded a letter she'd recently received from VM which said that VM would accept written instructions to transfer a pension to another provider.
- Mrs H also raised a number of new complaint points.

I contacted VM and asked why the terms Mrs H recently forwarded to this Service were different to the terms I relied on in my provisional decision. VM responded and said the terms that say it will sell units when it is ready to complete the transfer reflect current terms, and were the terms in effect when Mrs H indicated her desire to transfer. VM went on to say that the terms provided by Mrs H, when she responded to my provisional decision, were much older terms that date from when products were sold under a different Virgin brand and have since been superseded many times.

I also told VM that Mrs H said she received a letter from VM, dated 25 August 2023, which she said told her that VM would, in fact, accept written instructions to transfer a pension to another provider.

VM responded and said the letter in question stated that VM does accept written and signed instructions. However it stated this does not mean its position has changed – it still needs all the required information, permissions and declarations submitted in writing.

VM went on to say it provides transfer forms as they are the easiest, most efficient and robust means of seeking to transfer and are far more likely to achieve the customer's transfer than any attempts at making the same via a white paper request.

Having said that, VM said that if a consumer provided all the required information, permissions and declarations it and the other provider needed via a signed, white paper postal request, it would not decline that instruction for the sake of having the same information transposed to a form. It said Mrs H's requests had so far fell far short of being acceptable and of providing the information and declarations it needed to start sharing her personal information with another provider, and of the information the other provider would need to assess the transfer and seek to accept it.

I am now in a position to issue 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.

I can see that Mrs H didn't get a response to the complaint that she and her husband jointly raised with VM in January 2023 – VM only responded to Mr H. Mrs H wrote to VM to let it know it hadn't responded to her, but still VM did not issue a final response to her complaint. Nonetheless, as more than eight weeks have passed since Mrs H raised her complaint, I will address the relevant complaint points raised by her in this decision.

Mrs H has been in contact with this Service numerous times and has provided a great deal of testimony in relation to her complaint about the difficulties she said she has had trying to transfer her PPP to another provider. I want to assure Mrs H that I have read everything submitted by her, even if I don't refer to each and every point made. Instead I'll only address what I see to be relevant in reaching a fair and reasonable outcome here, and this reflects the informal nature of this Service.

Mrs H also raised a number of new complaint points against VM when she responded to my provisional decision. However I am not going to extend the scope of this decision and deal with all new issues raised. But this won't disadvantage Mrs H, as any new complaint points can be raised with us separately as and when Mrs H goes through the usual complaints process with VM and receives a final response from it. Our Investigator will continue to communicate with Mrs H about these new matters.

The transfer process

The crux of Mrs H's complaint is that she says she wants to transfer her pension funds from VM to another provider and thinks VM should have actioned her transfer request some time ago.

The issue here is that VM has said Mrs H needs to complete and submit the relevant transfer paperwork before it will start the process of transferring her funds to another provider. Mrs H, however, thinks VM should accept a signed, written instruction from her without the need for her to complete transfer paperwork. Mrs H also thinks VM has provided contradictory information about what steps she needs to take to start the transfer process.

I've first of all looked at what Mrs H has said in relation to VM not clearly outlining how external transfers are processed in its terms and conditions. Mrs H thinks there should be a term specifically outlining how the transfer will happen. However, broadly speaking, terms and conditions usually provide an outline of the contractual agreement between both parties.

They often won't contain detailed information about how a business operates on a day to day basis. One of the reasons for this might well be because it allows operational changes to be made without it being necessary to alter the contractual agreement between both parties. So I'm satisfied that VM hasn't acted unfairly by not outlining in its terms the particulars of what steps need to be taken in order for funds to be transferred to another provider. I think it's reasonable for VM to outline the transfer process outside of the plan terms.

Having said that, I would expect VM to let Mrs H know what steps she needs to take to transfer her funds, assuming she asked VM for this information. So I've looked at whether the process was clearly explained to Mrs H and whether she was provided with the tools needed to transfer her funds to a new provider.

I can see that Mrs H first requested the relevant pension transfer paperwork by email several times in November 2021. Her husband, Mr H, then rang and spoke to a VM adviser on 9 December 2021 and requested the paperwork again. The VM adviser said he would arrange for the paperwork to be sent and I can see that a letter, with the transfer paperwork attached, was sent to Mr H on 9 December 2021. The letter containing the transfer paperwork was addressed only to Mr H, so the transfer paperwork was not sent directly to Mrs H at that point in time.

Having listened to the phone call between Mr H and VM on 9 December 2021, I don't think it was made clear to the VM adviser that both Mr H and Mrs H wanted copies of the transfer paperwork. Mr H didn't mention that he was also calling on behalf of his wife and as he and Mrs H hold separate policies, I don't think it would be fair to expect the VM adviser to know that Mrs H also wanted a copy of the transfer paperwork. So I don't think VM made an error when it didn't send the transfer paperwork to Mrs H following Mr H's phone call to it on 9 December 2021.

Having said that, I do think that VM failed to action several requests for the transfer paperwork that Mrs H made by email in November 2021. This meant Mrs H didn't get a letter with the transfer paperwork attached, that was specifically addressed to her, until around September or October 2022. This was quite a long time for Mrs H to wait to receive the transfer paperwork. So I've considered whether this caused her any detriment, and I don't think it did. I'll explain why I say that.

As I said, it's the case that VM didn't send the transfer paperwork specifically to Mrs H until around 10 months after it was requested. However, Mrs H's husband received the transfer paperwork from VM in December 2021. It's clear that Mr and Mrs H are very much working in tandem in relation to the transfer of their pensions, so I'm satisfied that Mrs H will most likely have had access to the transfer paperwork sent to her husband in December 2021. So I think if Mrs H had wanted to begin the transfer process prior to VM sending the papers directly to her, then she could have done that by using a copy of the transfer papers sent to Mr H.

I've seen a copy of the letter sent to Mr H on 9 December 2021 and the transfer forms that were attached. I've already said I'm satisfied Mrs H had access to this paperwork and I'm also satisfied that the letter and forms were clearly worded enough that a reasonable consumer, and that's the appropriate test here, would understand the steps they needed to take to start the process of transferring pension funds to another provider.

Although Mrs H has repeatedly said she wants to transfer her pension funds, to date she hasn't actually completed and submitted the transfer paperwork. So I can't say that the delay in sending the paperwork to her is linked to why Mrs H's PPP remains with VM.

Mrs H feels she lost out on an incentive that was offered by a different provider, if she transferred her funds by a certain date in 2022. But Mrs H hasn't yet completed the correct paperwork in order to transfer her pension funds. So I can't fairly say that she lost out on this incentive because of any action, or inaction, on the part of VM.

Mrs H told this Service that she was provided with contradictory information during phone calls with VM advisers about whether to send the transfer paperwork to VM or to the new provider. But, having listened to the various calls Mrs H made to VM between November 2021 and February 2022, I've not heard that contradictory information was provided. During calls made between November 2021 and February 2022 the same essential message was given to Mrs H by VM advisers, which was that Mrs H needed to complete transfer forms and also that she needed to contact both VM and the new provider about the transfer. I know that Mrs H thought that she was provided with contradictory information during a call with a VM adviser in January 2022, but that conversation was in relation to transferring a different product.

I've already said that I'm satisfied Mrs H most likely had access to the transfer papers in December 2021. So even if she thought she had been given contradictory information by VM advisers when she called – and I don't agree that was the case – she was already in possession of the transfer papers and these clearly told her what steps needed to be taken to start the transfer process.

Mrs H also told this Service that when she spoke to a VM adviser she was told that VM would accept written, signed instructions to start the transfer process. Mrs H said she thinks VM should consider a letter signed by her to be sufficient authorisation to transfer her pension to a new provider. So Mrs H doesn't think she should have to complete the transfer paperwork sent to her husband by VM in December 2021.

This point was raised again by Mrs H when she responded to my provisional decision and said she'd received a letter in August 2023 from VM stating that it would, in fact, accept written instructions to begin the process of transferring Mrs H's pension to another provider.

When I issued my provisional decision, I said I couldn't see any evidence to suggest Mrs H was told that a signed letter is enough to start the transfer process. I can see that Mrs H's husband was told during the 5 February 2022 call with a VM adviser that a "wet signature" was needed, but this was in response to a question asked about why pension funds couldn't be transferred electronically. The VM adviser did not say that a signed letter was sufficient authorisation, and the adviser had stated earlier in the call that it was necessary to complete the relevant transfer paperwork. So, up to the point Mrs H responded to my provisional decision, I couldn't see that Mrs H was told that a signed letter was enough to start the transfer process.

The fact that Mrs H has provided a very recent letter – dated from August 2023 – from VM stating that it will accept written instructions does not change my finding that Mrs H hadn't been told this previously. The issue here is that it's for VM to decide how it accepts transfer instructions. VM will have set up its transfer process so that it can carry out security checks before it begins the process of transferring a pension. This offers protection to both VM and its consumers. And our Service won't interfere with reasonable security measures taken by VM.

So I'm satisfied that it's reasonable for VM to be the party that decides whether a signed letter submitted instead of the transfer forms contains enough information, permissions and declarations for it to be considered a valid request to transfer. VM has said that Mrs H's written requests had so far fallen far short of being acceptable and of providing the information and declarations it needed to start sharing her personal information with another

provider, and of the information the other provider would need to assess the transfer and seek to accept it. As I said, it's for VM to decide how it accepts transfer instructions and I won't interfere with this.

Transferring funds electronically

Mrs H has said that once she decides to transfer her pension funds, she wants the transfer to be carried out as quickly as possible so that the value of the funds don't fluctuate while the transfer is being processed. She wants VM to use a particular electronic transfer system to facilitate this. But VM doesn't use this system and has made this clear to Mrs H. Whether VM chooses to use this system or not is a commercial decision VM is entitled to make and which this Service won't interfere with. I can appreciate why Mrs H would want any transfer completed quickly – she doesn't want funds to devalue during the transfer process. But it's the case that funds could also increase in value since investments fluctuate. Regardless, VM simply doesn't use this system and as I said, we won't interfere with that commercial decision.

Use of cash accounts during the transfer process

VM told Mrs H and this Service that it does not move consumers' funds into cash accounts once an instruction to transfer funds has been received. But Mrs H thinks that cash accounts should be utilised by VM at the start of the transfer process, as she feels her money should be protected from any market changes from the point in time that she instructs VM. Mrs H told this Service that her PPP has decreased in value quite significantly since she moved it to a Bonds and Gilts fund in November 2021 and January 2022. She thinks this decrease wouldn't have happened if VM had moved her funds to a cash account back in November 2021, when she first told it of her intention to transfer her funds to another provider. So Mrs H thinks VM should compensate her for the amount she's lost.

Mrs H pointed to a clause in the PPP terms and conditions which she believes indicates that a cash account will be used by VM once a decision is made to transfer pension funds. But I've read the term in question and I'm satisfied it doesn't apply to Mrs H's situation.

The term Mrs H is referring to summarises the process that VM will follow if it is VM that makes the decision to transfer Mrs H's PPP to another provider. It does not outline the process VM will follow if it is Mrs H who makes the decision to transfer her PPP.

For clarity, the term Mrs H is referring to says:

"16b Can Virgin Money transfer my pension? We may transfer your pension to another registered pension scheme that is governed by HMRC where we consider that this would mean that you would receive a better pension product or service. If we do this, we'll give you at least 30 days' notice before the transfer is due to take place. The value of your pension would be protected throughout any transfer, and we would seek to ensure that you're not prejudiced by the transfer."

As I said, I'm satisfied this term does not apply to Mrs H's situation. The term that does apply here, should Mrs H decide to transfer her pension fund, is:

"You can transfer your pension savings to another pension provider at any time, and we won't charge for this. Once we receive notification from your new pension provider, and both parties have all the information needed, we'll move your pension to them using the unit price on the transfer day. Once your new provider has told us that you are transferring you can't change your mind."

I'm satisfied that this term clearly states that the unit price that will be relied on when an external transfer is being processed is the price on the day the funds are actually transferred to the new provider – and not on the day the transfer is requested by Mrs H. And this means that VM doesn't place funds in cash accounts once a consumer has initiated the transfer process, as the transfer value is not calculated at that stage.

I've listened to a recording of the call Mrs H's husband made to a VM adviser on 5 February 2022. He asked the advisor whether VM used a cash account to hold funds while transfers were being processed. He was told it doesn't – that all funds remain in investment accounts. When he expressed concern that the value of pension funds could change during the transfer process, the adviser confirmed that this was correct, that all funds are subject to market movements. I'm satisfied Mr H would have relayed the key messages from this phone call to Mrs H.

So I'm satisfied the plan terms mean VM was correct to say on 5 February 2022 that it does not transfer pension funds to a cash account once a consumer initiates the transfer of their funds to a different provider. This means that I don't intend to ask VM to take any further action in relation to Mrs H's request that her funds are placed in a cash account at the point in time that she initiates the transfer process.

When Mrs H responded to my provisional decision, she provided terms that she said showed that VM would rely on the unit price on the day it received full written instructions to transfer funds. VM has confirmed that these are old terms and have been superseded several times. And I can see that the terms are indeed those listed under a different Virgin brand, which I understand no longer exists. So while I appreciate that Mrs H would likely have had no idea she was submitting old terms, they are out of date and the term that can be relied on here is the one I've outlined above.

Other concerns:

I can appreciate that Mrs H is also concerned about the fact that the value of her pension funds have decreased quite significantly over the past 18 months or so. I make no specific findings on this point, but it's important to note that the value of investments can go down as well as up. Bond and Gilt funds aren't immune to risk, and it's my understanding that global events have affected most investments, with increased inflation and interest causing gilt values to fall significantly.

Mrs H is concerned that VM said it would hold onto her funds indefinitely if she did not complete the necessary transfer paperwork. It's not clear just what Mrs H is concerned about here – if she doesn't complete the necessary transfer paperwork in whatever form that contains all the necessary information required by VM, then it reasonably follows that VM can't transfer her funds to a new provider. Broadly speaking, it can't transfer the funds without her authorisation, and her authorisation is given by her correctly completing and submitting the transfer paperwork.

To summarise, I'm satisfied that Mrs H would have had access to the correct transfer paperwork back in December 2021, and that the transfer paperwork makes it clear what steps need to be taken by Mrs H to start the transfer process. I understand why Mrs H might be reluctant to transfer her funds to a new provider at this stage, given the decrease in the fund value. And I have a great deal of sympathy for the situation she finds herself in. But while I know Mrs H will be disappointed with my decision, I am not intending to ask VM to take further action in relation to this complaint.

My final decision

It's my final decision that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs H to accept or reject my decision before 26 January 2024.

Martina Ryan
Ombudsman