

## Ombudsman's Determination

Applicant	Mr L
Scheme	Mercedes-Benz UK Pension Scheme ( <b>the Scheme</b> )
Respondents	Daimler UK Trustees Limited ( <b>the Trustee</b> ) Willis Towers Watson ( <b>the Administrator</b> )

## Outcome

1. Mr L's complaint against the Trustee is partly upheld, but there is part of the complaint I do not agree with. To put matters right, for the part that is upheld the Trustee shall increase its award to £1,000 for the serious distress and inconvenience caused to Mr L.

## Complaint summary

2. Mr L complained that his pension is considerably lower than he was told it would be due to a calculation error made by the Scheme's previous administrator.

## Background information, including submissions from the parties

3. Mr L was an active member of the Scheme from 30 January 1989 to 20 September 1992 when he became a deferred member.
4. On 13 January 1993, the Administrator sent Mr L a letter which stated that if he took his pension benefits at age 65, he could expect to receive an annual pension of £9,086.
5. In June 2011, Mr L requested a retirement quotation (**the 2011 quotation**). It showed that, at his normal retirement date of 25 April 2019 (**NRD**), Mr L could expect to receive: -
  - An annual pension of £7,023.65Or
  - A tax-free lump sum of £31,345.21 and a reduced annual pension of £4,701.78

6. Mr L decided to review his retirement provisions with a financial adviser and he requested a retirement quotation in August 2015 (**the 2015 quotation**). The 2015 quotation showed that at his NRD, he could expect to receive:-

- An annual pension of £12,877.36

Or

- A tax-free lump sum of £57,469.21 and a reduced annual pension of £8,620.38

7. In June 2017, Mr L requested another retirement quotation (**the 2017 quotation**) which showed that at his NRD, he could expect to receive:-

- An annual pension of £12,396.55

Or

- A tax-free cash lump sum of £55,323.45 and a reduced annual pension of £8,298.52.

8. On 14 November 2018, the Administrator wrote to Mr L to inform him that there was an error in his benefit calculations. The previous Scheme administrator had duplicated a transferred-in service credit and this meant that his pension benefits had been overstated. The Administrator sent an updated quotation (**the 2018 quotation**) which showed that, at Mr L's NRD, he could expect to receive:-

- An annual pension of £6,813.70

Or

- A tax-free cash lump sum of £30,408.25 and a reduced annual pension of £4,561.24.

9. Mr L wrote to the Scheme to complain about the incorrect calculation. He said:-

- The difference between the 2017 quotation and the 2018 quotation was unacceptable.
- His financial planning for retirement had been based on the figures provided in the 2015 and 2017 quotations, so the Scheme should honour those figures.
- There was a huge difference in the figures quoted and the Administrator had noticed the error only a few months before his NRD, when there was little he could do to mitigate the situation.

10. The Trustee reviewed Mr L's complaint and said:-

- The correct annual pension was £6,813.70.
- It apologised for the inconvenience and disappointment Mr L had been caused by the error.

- The Trustee is required to pay benefits as set out in the Scheme Rules and cannot honour an incorrect quotation.
- Mr L could escalate his complaint through the Scheme's internal dispute resolution procedure (**IDRP**).

11. On 8 February 2019, Mr L invoked the Scheme's IDR.

12. On 1 April 2019, the Trustee issued Mr L with a final response under the IDR. It said that:-

- Correspondence sent to Mr L between September 1992, when he left the Scheme, and 2011, provided accurate quotations for Mr L's expected pension at age 65.
- The previous administrator had duplicated the transferred-in benefit at some point between June 2011 and 2012, when the data was transferred to the current Administrator.
- By law, Mr L should not benefit from the error but should receive the correct benefits.
- It recognised the error had caused a loss of expectation and offered £500 for distress and inconvenience.

### **Adjudicator's Opinion**

13. Mr L's complaint was considered by one of our Adjudicators who concluded that the maladministration had caused Mr L serious distress and inconvenience. The Adjudicator's findings are summarised below:-

- Mr L was provided with two incorrect quotations that were not an accurate reflection of his retirement benefits. The error amounted to maladministration and the normal course of action would be, as far as possible, to put Mr L back into the position he would have been in had the error not occurred. This did not mean that Mr L should have been paid a level of benefits to which he was not entitled.
- It was not reasonable for Mr L to rely on the incorrect quotations because there was a substantial increase in the value between 2011 and 2015, that Mr L did not question.
- The quotations stated that the figures were estimates only so it was not reasonable to rely on them.
- Mr L had suffered a loss of expectation rather than an actual financial loss because he was not entitled to the benefits set out in the incorrect quotations.
- The Trustee should offer Mr L £1,000 for the serious distress and inconvenience that it had caused.

14. Mr L did not accept the Adjudicator's Opinion and the complaint was passed to me to consider.
15. Mr L provided his further comments which do not change the outcome. Mr L said:-
  - He did not query the increase between 2011 and 2015 because the growth between 1993 and 2015 seemed feasible and encouraging.
  - It was reasonable for him and his financial advisor to rely on the pension quotations as the basis for retirement planning.
  - He began winding down his business from 2015 based on the incorrect quotations. If he had concerns about his pension, he would have maintained the pre-2015 level of business.
  - His long-term financial security had been "vastly and permanently undermined through no fault of [his]."
  - His health has deteriorated as a result of the error.
  - The offer of £1,000 seemed to trivialise his case and could not be seen as fair and proportionate for the error.
16. I agree with the Adjudicator's Opinion and I will therefore only respond to the points made by Mr L for completeness.

### **Ombudsman's decision**

17. As explained in the Adjudicator's Opinion, the basic principle for negligent misstatement is that a scheme is not bound to follow incorrect information.
18. In this case, the incorrect information was the retirement quotations sent to Mr L in June 2011 and August 2015. Mr L is only entitled to receive the benefits provided for under the Scheme Rules, that is, benefits based on correct information accurately reflecting the Scheme Rules.
19. I will only provide redress if it can be shown that that financial loss or non-financial injustice has flowed from the incorrect information provided. I am not persuaded in this case that Mr L has suffered a financial loss.
20. The Trustee has agreed that "at some point" between June 2011 and 2012, the Scheme's previous administrator provided incorrect data to the current administrator (**the data transfer**), Based on this information, the current Administrator issued Mr L with incorrect quotations that led him to believe that he was entitled to a much higher pension than was actually the case. Mr L has said that he had made plans, in expectation of receiving the higher amount, and suffered a financial loss of "£120,000+" as a result of the incorrect quotations.

21. To support his claim that he relied on the incorrect figures when making financial decisions, Mr L provided approximate figures of his business income from 2012 to 2019. Mr L's business income decreased by approximately £10,000 between 2012 and 2015. He maintained the same level of income between 2015 and 2018. It increased by £3,500 between 2018 and 2019 following Mr L's attempt to "pick up more business."
22. The figures between 2012 and 2015 suggest that Mr L had begun winding down his business before he requested the 2015 quotation. Furthermore, Mr L's requests for retirement quotations were all based on his NRD. This suggests that Mr L planned to retire when he reached age 65 regardless.
23. There is no doubt that Mr L has suffered a loss of expectation, as a result of the incorrect information provided to him on the value of his pension, and that the error has caused him non-financial injustice.
24. Mr L and his financial advisor needed a figure on which to base his retirement planning. It was reasonable to expect the retirement quotations to provide an accurate reflection of what Mr L might receive when he reached age 65. However, the quotations explained that the values were an estimate of what Mr L might receive and that the figures were not guaranteed. In my view, it was clear that the figures could not be relied on. Taking this into consideration it would have been reasonable for Mr L to seek clarity over the significant increase between the 2011 and 2015 statements.
25. I understand that Mr L is disappointed that he is entitled to less than he expected and I sympathise with the position in which he finds himself. The Trustee has agreed to make Mr L a payment of £1,000 in recognition of the serious distress and inconvenience he has suffered which I find is reasonable and in line with my guidelines.
26. Therefore, I partly uphold Mr L's complaint.

## **Directions**

27. Within 14 days of the date of this Determination, the Trustee shall pay Mr L £1,000 in recognition of the serious distress and inconvenience that was caused to him by its provision of misinformation.

**Anthony Arter**

Pensions Ombudsman  
16 March 2020