

## Ombudsman's Determination

Applicant	Mr E
Scheme	Heinz UK Pension Plan ( <b>the Scheme</b> )
Respondents	The Trustee of Heinz UK Pension Plan ( <b>the Trustee</b> ), Capita ( <b>the Scheme Administrator</b> )

## Outcome

1. I do not uphold Mr E's complaint and no further action is required by the Trustee or the Scheme Administrator.

## Complaint summary

2. Mr E has complained that he was not aware of the option to transfer his pension benefits out of the Scheme and considers he would have been financially "better off" if he had transferred.

## Background information, including submissions from the parties

3. The sequence of events is not in dispute, so I have only set out the salient points. I acknowledge there were other exchanges of information between all the parties.
4. Mr E was an active member of the Scheme until he took redundancy on 1 May 2015.
5. In March 2015, Mr E wrote to Capita (**the Scheme Administrator**) and said he had been offered voluntary redundancy and would like to take his pension entirely as a lump sum from age 50 in 2016.
6. On 8 April 2015, the Scheme Administrator replied to Mr E and provided him with a Pension Option Form (**the Form**) and accompanying notes on his options (**the Notes**). The letter to Mr E said:-

"I can confirm that you are unable to take a one off lump sum from the Plan. You do however have the following options available to you:

- A maximum annual pension (payable on a monthly basis)
- A tax free cash lump sum, and a reduced annual pension (paid on a monthly basis)

- Transfer your benefits out of the Plan
- Defer taking your benefits until the normal retirement date (65).

If you decide to transfer your benefits you will be required to seek independent financial advice from a FCA registered adviser before making any decisions. We will be able to provide you with a guaranteed transfer value once you have left the Plan.”

7. The Form also said the following (amongst other things):

**“Alternative Option**

As an alternative to the above retirement benefits you can opt to transfer the value of your benefits to another registered pension arrangement (see note 2).”

8. The Notes under “2” said:

“Under the Plan, up to the point you start to draw your pension, you are entitled to transfer your benefits to another registered pension scheme....

If you draw your pension from the Plan, you will receive the pension benefits set out in this statement. The pension will be set regular income taking into account which retirement option (1, 2 or 3) you chose; you cannot later change the option to decide to draw your pension more slowly or quickly.

If instead of drawing your pension from the Plan you transfer your benefits to a suitable alternative arrangement, you would potentially be able to draw your pension in a more flexible way due to the changes to pensions introduced in April 2015...

It is now a requirement for you to take independent financial advice before your transfer. We suggest therefore that if you are considering transferring, you contact an independent financial adviser at an early stage....

If you do wish to consider the option to transfer then do not complete and return this form and instead contact Capita...”

9. On 17 June 2015, Mr E signed the Form requesting the maximum lump sum of £17,442 and an annual pension of £2,616 from February 2016.
10. In 2016, Mr E received his pension benefits from the Scheme.
11. In September 2018, Mr E complained to the Scheme Administrator. He said that he had recently been told that people were being allowed to “move” their pension. He had wanted his pension paid as a lump sum, but he was given no financial advice on how to take his pension benefits. Mr E also said he had seen no reference to the option to transfer so wanted to be allowed to transfer his pension benefits.

12. On 4 December 2018, the Scheme Administrator replied under stage one of the Internal Dispute Resolution Procedure (**IDRP**). It said it was satisfied that there was adequate reference to Mr E's options under the Scheme, including the option to transfer. As Mr E was in receipt of a pension from the Scheme he could no longer transfer.
13. On 14 January 2019, Mr E appealed the decision and asked the Trustee to "buy-out" his pension and convert it to a lump sum payment. He said he considered he would be in a better financial position had he transferred.
14. On 1 April 2019, the Trustee replied to Mr E under stage two of the IDRP and said:-
  - Information about the option to transfer was explicitly stated in the Scheme Administrator's letter to Mr E of 8 April 2015.
  - The Form and the Notes provided an explanation of the option to transfer.
  - As Mr E's pension was in payment it was not possible for it to be transferred to another pension arrangement under current legislation.
  - The Trustee could not "buy out" his pension.
  - The option of a lump sum under triviality would not have been available to Mr E, due to the value of his pension benefits in the Scheme.
15. Mr E remained unhappy and referred his complaint to The Pension Ombudsman. He said he thought he would be "better off" financially had he transferred his pension, and not taken the lump sum and pension from the Scheme.

## **Adjudicator's Opinion**

16. Mr E's complaint was considered by one of our Adjudicators who concluded that no further action was required by the Trustee or the Scheme Administrator. The Adjudicator's findings are summarised below:-
  - The Scheme Administrator's letter of 8 April 2015, the Form and the Notes provided in 2015, clearly set out Mr E options at retirement, including the option to transfer.
  - Mr E was advised that he should seek independent financial advice. It was his choice to return the Form without seeking further clarification of the transfer option or financial advice.
  - The Trustee and the Scheme Administrator met its obligations by setting out the options available to Mr E, which included the option to transfer.
  - The Trustee could not provide advice to Mr E on what he should do as the Trustee was not regulated to provide financial advice, but in any event Mr E did not query his options at the time and returned the Form.

- Once the Form was returned the Trustee was under an obligation to follow Mr E's instructions. So, Mr E received his pension benefits in accordance with his instructions.
  - Current pension legislation does not allow Mr E to transfer the pension which he is receiving from the Scheme.
17. Mr E did not accept the Adjudicator's Opinion and the complaint was passed to me to consider. Mr E said:-
- He was not given any advice about transferring his pension before he left in May 2015 and took his pension in 2016.
  - Other members were advised to get a financial adviser and following advice the members had transferred their pension benefits out of the Scheme.
  - He would have to live to "over 100 years of age" before he received the same amount to what he would have received had he transferred.
  - He has been unfairly treated and had lost out financially.
18. I note the additional points raised by Mr E, but I agree with the Adjudicator's Opinion.

### **Ombudsman's decision**

19. Mr E has said he did not receive advice before he took his pension benefits from the Scheme, and now considers he has lost out financially by not transferring.
20. The Trustee would have been unable to provide Mr E with financial advice on his options, as the Trustee is not regulated to provide such advice. It is part of the Trustee's role to provide information to members on the options available from the Scheme. I do not agree that Mr E was treated unfairly as the Trustee met its obligations, by advising Mr E, in 2015, of all his retirement options. The letter from the Scheme Administrator of 8 April 2015, the Form and the Notes, clearly set out all the options available to Mr E, including the option of transferring.
21. Mr E has argued he would have been better off financially if he had transferred rather than taken a pension from the Scheme. However, it was Mr E's decision to proceed to take his pension benefits, rather than seek independent financial advice, or request additional information on the transfer option.
22. When Mr E returned the Form to the Scheme Administrator, the Trustee was under an obligation to follow his instructions. Mr E may have now changed his mind about the option he should have chosen, but he is receiving pension benefits in accordance with his instructions to the Trustee. I do not consider the Scheme Administrator or Trustee did anything wrong by setting up his pension as they were instructed.

23. It is not possible for Mr E's pension benefits to be transferred now as current pensions legislation does not allow Mr E to transfer his pension benefits, because they are currently in payment.
24. I do not uphold Mr E's complaint.

**Anthony Arter**

Pensions Ombudsman  
15 September 2021