

## Ombudsman's Determination

Applicant	Mr L
Scheme	Barloworld UK Pension Scheme ( <b>the Scheme</b> )
Respondents	Barloworld Pension Trust Limited ( <b>the Trustee</b> ) JLT Benefit Solutions Ltd ( <b>JLT</b> )

## Outcome

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

## Complaint summary

2. Mr L said that he and his financial adviser (**the Adviser**) encountered delays in obtaining late retirement and transfer illustrations from JLT. He also highlighted further delays in JLT answering follow on questions that were raised by the Adviser. He stated that these delays resulted in him being unable to make a benefit choice and take his benefits when he wanted to.
3. Mr L considers he has suffered the following financial losses:-
  - He was forced to defer taking an annual pension of £13,567.42, thus losing income for ten months from 1 July 2017 to 12 April 2018 of £11,306.18.
  - He has calculated that adding 8% pa interest to the Cash Equivalent Transfer Value (**CETV**) figure in the original illustration for 10 months gives a figure of £17,847.93. He stated that, as the final CETV illustration was only £4,931 higher than the original, he has lost out on £12,916.93 interest that he could have earned.
  - He was forced to encash other investments to maintain his income.
  - He was forced to take a loan to replace his company car. He had purchased the car in May 2017, in the expectation of receiving benefits from the Scheme. He calculated that this, together with unplanned use of credit cards and bank overdrafts, resulted in a total additional cost to him of £983.
  - He was forced to continue to work as he was not confident that he could retire due to the delay in getting details of his benefits from JLT.

4. Mr L has highlighted the considerable stress and frustration that he has felt. He also mentioned the time and effort that he and the Adviser had put into trying to resolve his case.
5. Mr L considered it appropriate for there to be a substantial increase to the distress and inconvenience payment offered by the Trustee on 16 January 2019.

### **Background information, including submissions from the parties and timeline of events**

6. Mr L was a member of the Bibby Section of the Scheme. The Scheme is run by the Trustee and it is administered by JLT.
7. On 24 April 2017, the Adviser telephoned JLT to request a CETV illustration in respect of Mr L's benefits. The Adviser also requested a late retirement illustration based on a retirement date of 1 June 2017.
8. On 28 April 2017, a letter of authority (**LOA**) was received by JLT allowing it to provide information to the Adviser. It is noted that, at that point, there was some dispute over whether a LOA was already in place.
9. On 28 May 2017, JLT requested a CETV illustration from the Scheme's Actuaries (**the Actuaries**). On this day, JLT also wrote to Mr L and the Adviser to let them know that their request had been forwarded to the Actuaries.
10. On 2 June 2017, the Adviser expressed concern to JLT in relation to the lack of response to his request of 24 April 2017.
11. On 8 June 2017, JLT contacted the Adviser to request further details to enable it to verify the identity of Mr L.
12. On the same day, the Adviser provided JLT with the verification details that it had requested.
13. On 9 June 2017, the Adviser raised a complaint in a telephone conversation with JLT in relation to delays in it providing the late retirement illustration requested on 24 April 2017.
14. On the same day, JLT wrote to Mr L and the Adviser to apologise for the delay in providing the late retirement illustration. It stated that, due to the complexity of Mr L's benefits, a further step was required involving the Trustee.
15. On 13 June 2017, the Adviser queried with the Trustee why it was taking so long to get answers from JLT.
16. On 15 June 2017, JLT requested a decision from the Trustee in relation to Mr L's value for money (**VFM**) benefit. This decision was needed so that it could finalise his late retirement illustration.

17. On 16 June 2017, the Trustee provided JLT with the decision requested on 15 June 2017.
18. On the same day, JLT responded to the Adviser, confirming that it was preparing Mr L's late retirement illustration.
19. On the same day, the Adviser acknowledged JLT's reply of that same date. He stated that an additional critical item was a response to a questionnaire that it was informed had been sent to Mr L but never arrived.
20. On 22 June 2017, JLT responded to the complaint raised by the Adviser on 9 June 2017. It stated that, due to Mr L's benefits including a VFM element, a comparison of benefits calculation had to be referred to the Trustee.
21. On 30 June 2017, JLT sent Mr L a late retirement pack based on a retirement date of 1 July 2017.
22. On 3 July 2017, JLT chased the Actuaries for a response to its request for a CETV illustration that it had made on 28 May 2017. It also wrote to Mr L and the Adviser to let them know that the case was still with the Actuaries.
23. On 10 July 2017, the CETV illustration was provided to JLT by the Actuaries.
24. On 2 August 2017, JLT sent a transfer pack to Mr L and the Adviser.
25. On 14 August 2017, the Adviser raised a number of questions with JLT in relation to the retirement illustration. He also commented that he had previously raised a complaint and he had not received any acknowledgement or update.
26. On 15 August 2017, the Adviser asked JLT for an acknowledgment of receipt of his email of 14 August 2017.
27. On 16 August 2017, the Adviser emailed JLT following an email from it on that same day. He requested a prompt reply to the outstanding questions and also acknowledged:

"...putting the complaint aside as we cannot properly assess the value of any damage at this stage until all processes have been completed".
28. On 6 September 2017, True Potential (**TP**) made contact with JLT requesting information in relation to Mr L's benefits. TP were working with Mr L and the Adviser on a possible transfer out of the Scheme.
29. On 11 September 2017, JLT advised that it was unable to release information to TP until an original LOA had been received.
30. On 14 September 2017, JLT emailed the Adviser to confirm that it had posted a letter which provided all the information requested on 14 August 2017.

31. On the same day, the Adviser asked JLT if its letter of that same date included details of Mr L's Pension Commencement Lump Sum (**PCLS**) and residual pension. Another, new, question was also raised.
32. On 28 September 2017, JLT responded to the Adviser on what it believed to be the outstanding points. It referred to its letter of 14 September 2017, commenting that this letter included details of Mr L's PCLS and residual pension.
33. JLT also reiterated that it did not have authority to release information to TP. So, it was responding to the Adviser on the points raised by TP relating to the VFM benefit.
34. On 25 October 2017, the Adviser emailed JLT asking for an extension to the PCLS guarantee date due to the requested information only arriving a few days before that date. He requested an extension to 20 December 2017. He also attached a copy of Mr L's authority to release information to TP.
35. On 15 November 2017, the Adviser emailed JLT asking for an update on his email of 25 October 2017.
36. On 20 November 2017, the Adviser emailed JLT to confirm a telephone conversation that he had with it, in which he was promised a response by 21 November 2017.
37. On 29 November 2017, the Adviser chased JLT for its feedback, stating that he had been told to expect a response on 21 November 2017 and then on 22 November 2017.
38. On 1 December, the Adviser chased JLT for a response.
39. On 6 December 2017, the Adviser emailed JLT. He stated that a CETV illustration had been requested in April 2017 due to Mr L planning to take retirement in June 2017 and him wanting to compare all options. He said that, when provided, the illustration was close to the guarantee expiry date and an extension to the guarantee date was requested which was ignored.
40. On 13 December 2017, the Adviser emailed JLT expressing disappointment at not having received an acknowledgement of receipt and idea of timescales for a response. He highlighted the importance of getting confirmation of an extension to the transfer guarantee date.
41. On the same date, JLT acknowledged receipt of the Adviser's emails and promised to respond in two working days.
42. On 15 December 2017, the Adviser chased JLT for a response.
43. On 18 December 2017, JLT acknowledged the Adviser's email and promised to get back to him shortly.
44. On 28 December 2017, the Adviser chased JLT by email for a response to his complaint and a timescale for provision of information. He also asked for an extension to the CETV illustration guarantee date.

45. On 3 January 2018, JLT advised the Adviser that a new CETV illustration would be provided free of charge once it had received up to date factors from the Actuaries. It also mentioned that it was reviewing his complaint.
46. On 5 January 2018, JLT confirmed to the Adviser that new factors had been received from the Actuaries and that it would provide a new CETV illustration shortly.
47. On 15 January 2018, JLT provided a transfer pack to Mr L and the Adviser.
48. On 16 January 2018, the Adviser chased JLT for a response to previous questions raised. He also raised further queries.
49. On 24 January 2018, the Trustee provided Mr L and the Adviser with a late retirement pack based on a retirement date of 1 January 2018. This had been prepared by JLT and it included responses to the Adviser's queries of 15 and 16 January 2018.
50. On 29 January 2018, JLT wrote to the Adviser. It provided a copy of its complaint procedure and confirmed that his complaint was being acted on. It provided additional information on Mr L's retirement benefits.
51. On 31 January 2018, JLT responded to additional questions raised in relation to Mr L's CETV illustration.
52. On 9 March 2018, JLT received the necessary forms to proceed with the transfer of Mr L's benefits.
53. On 23 March 2018, JLT paid the CETV, the monies being paid into a True Potential Investments Self Invested Personal Pension (**the SIPP**).
54. On 4 October 2018, the Adviser followed up on his complaint to JLT, providing copies of the relevant paperwork.
55. On 24 October 2018, the Adviser chased JLT for a response to his email of 4 October 2018.
56. On 30 October 2018, JLT provided a response to Mr L's complaint. It acknowledged that there were delays in it providing benefit information. It referred to a statement that Mr L and the Adviser had made that they did not get the information that they requested between 2015 and June 2017. It said that it did not have any record of any requests from 2014 to April 2017.
57. Mr L was offered £500 compensation by JLT. It agreed that some distress and inconvenience would have been suffered by Mr L that would have been avoided had processes completed within its normal service levels.
58. On 21 November 2018, Mr L formally complained to the Trustee. His complaint was considered under stage one of the Scheme's two stage Internal Dispute Resolution Procedure (**IDRP**). He said he had suffered distress and inconvenience due to delays in receiving responses to requests for benefit details from 2012 to 2017. Also delays in responses for details and queries on benefits from 24 April 2017 to March 2018.

59. On 16 January 2019, the Trustee provided its response under stage one of the IDRP. It apologised for the delays in JLT communicating with Mr L and the Adviser. It considered these to be 'serious' as defined in the Pensions Ombudsman's 'Redress for non-financial injustice' factsheet (**the Factsheet**). It offered Mr L a £1,000 distress and inconvenience payment together with £626.08 for losses that he had incurred in relation to his car loan. It also offered to add interest at the Bank of England Base Rate plus 1% to the payment of £626.08.
60. On 2 March 2019, Mr L provided his comments on the Trustee's response of 16 January 2019. He stated that, referring to the Factsheet, he had experienced all the factors that defined 'severe' non-financial injustice. He also said that he had experienced some of the factors that defined 'exceptional' non-financial injustice.
61. On 18 March 2019, the Trustee communicated its stage two IDRP decision. It stated that it considered the compensation offer that it had made on 16 January 2019 was appropriate.
62. In response to Mr L's complaint the Trustee has stated that:-
- Benefits were quoted correctly to Mr L and all the information requested was provided.
  - There were some unacceptable delays.
  - It had recognised Mr L's extra expense in taking out a loan in relation to the replacement of his Company car. This was reflected in its compensation offer which it confirmed still stood.
63. In response to Mr L's complaint, JLT, being now part of Mercer, said that:-
- It acknowledged that the late retirement pack that it had issued on 30 June 2017 was not sent within two months from it first receiving the request on 24 April 2017.
  - It acknowledged delays in providing other information.
  - It considered that the offer made by the Trustee on 16 January 2019 was reasonable.

## **Adjudicator's Opinion**

64. Mr L's complaint was considered by one of our Adjudicators who concluded that no further action was required by the Trustee or JLT. The Adjudicator's findings are summarised below:-
- The Adjudicator found no evidence of JLT making errors in the information that it provided. He went on to consider the delays in providing the initial CETV and late retirement illustrations and answering subsequent questions.

- The Adjudicator said that a late retirement illustration was requested by the Adviser on 24 April 2017 and issued on 30 June 2017. He noted that, as acknowledged by JLT, this was just outside the two-month window. The Adjudicator was satisfied that this was not an exceptional delay.
- The Adjudicator said that a CETV illustration was requested by the Adviser on 24 April 2017 and provided on 2 August 2017. He noted that this was a longer delay, partially due to the calculation having been with the Actuaries for over a month.
- The Adjudicator noted that, having requested the CETV and late retirement illustrations on 24 April 2017, by 2 August 2017, Mr L and the Adviser had received both packs. He appreciated that they then requested additional information that JLT was slow in providing. However, the Adjudicator was of the opinion that the two packs were adequate for Mr L to make an informed decision on his benefits had he felt that time was critical.
- The Adjudicator noted that the additional information, which was requested on 14 August 2017, was provided by 14 September 2017. At this point a further query was raised by the Adviser. From the information provided, the Adjudicator was of the view that all the outstanding queries had been responded to by 28 September 2017. Further questions were raised and responded to in January 2018. The Adjudicator was of the opinion that the Trustee and JLT could not be held responsible for the transfer to the SIPP not then taking place until 23 March 2018.
- The Adjudicator then considered the financial losses that Mr L said that he suffered as a result of delays caused by the Trustee and JLT:-
  - The Adjudicator noted that Mr L had stated that he suffered a loss of income for ten months having been forced to defer taking his retirement benefits from 1 July 2017 until 12 April 2018. The Adjudicator was of the view Mr L had sufficient information to have made an informed decision by 2 August 2017, however, he chose not to do so. The Adjudicator found no evidence that Mr L was forced to defer taking his retirement benefits as a result of actions by the Trustee or JLT.
  - Mr L submitted that he had lost out on £12,916.93 of interest that he could have earned but for the delays. To reach this figure he had added interest to the original CETV illustration and compared this to the difference between the two CETV illustrations. The Adjudicator was of the view that the 8% per annum interest figure used was over generous bearing in mind current investment returns. He said that using a more realistic interest rate would likely bring the two figures closer together. However, the Adjudicator was of the opinion that the correct calculation for loss would be to consider whether the value of the original lower CETV quoted would have been higher than the amount actually transferred at the date of transfer. The Adjudicator noted that Mr L had not suggested that to be the case.

- Mr L said that he was forced to encash other investments to maintain his income. While the Adjudicator understood that this might have been inconvenient for Mr L, the Adjudicator was of the view that Mr L had the option to make a benefit decision in August 2017 based on the contents of the two packs provided by JLT. So, he could have avoided the need to encash other investments.
  - Conversely, Mr L also commented that he was forced to continue to work as he was not confident that he could retire due to the delay in getting details of his benefits. The Adjudicator noted that a late retirement quote was requested on 24 April 2017 and received by Mr L on 30 June 2017. While this was just outside the two months maximum period that the Adjudicator considered reasonable for such requests, he was of the view that it did provide the information that Mr L would have needed in this respect.
  - In the opinion of the Adjudicator, the decision of when to continue working until was one that was in Mr L's control. He was not financially disadvantaged by continuing to work or forced to do so.
  - Mr L stated that he was forced to take a loan to replace his company car and that this, together with unplanned use of credit cards and bank overdrafts, resulted in a total cost £983. The Adjudicator noted that the Trustee had already offered Mr L a payment in respect of his costs in taking out an extra loan to cover the purchase of a car to replace his company car. The Adjudicator was of the opinion that the link to the usage of credit cards and bank loans was harder to make and he did not consider that any additional payment was required in this respect.
  - Mr L highlighted the considerable stress and frustration that he has suffered. He also mentioned the time and effort that he and the Adviser have put into trying to resolve his case.
  - The Adjudicator was of the view that some of the delays were unacceptable. He noted that the Trustee had already offered Mr L redress for non-financial injustice of £1,000, equating to the 'serious' level, as defined in the Factsheet. Mr L had stated that his case met all the criteria for being considered as 'severe' and some of the criteria for 'exceptional'. However, the Adjudicator was not persuaded that this was the case as he had not seen evidence that there were numerous, repeated or compounded errors that would normally be used to justify a payment at this level.
  - In summary, the Adjudicator said that, in his opinion, the amount of distress and inconvenience suffered by Mr L was not at the 'severe' or higher level. Nor, in his view, was financial reimbursement appropriate for the additional expenses that Mr L had identified, over and above that already offered by the Trustee.
65. Mr L did not accept the Adjudicator's Opinion and the complaint was passed to me to consider.



66. Mr L provided his further comments which do not change the outcome. He said:-

- His initial request to JLT was dated 24th April 2017 and it took 11 months to get his benefits transferred to his SIPP.
- He and the Adviser had encountered significant delays, crucial errors and omissions when requesting information from JLT. As a result of the maladministration by JLT, he had suffered financial losses. He had also had to make personal financial arrangements that had been at a cost to him. JLT had acknowledged these delays and had made a number of apologies.
- The delays in transferring his Scheme benefits to the SIPP were out of the control of both him and the Adviser. He had made a calculation in November 2018 showing his potential loss of income from his SIPP due to the delayed transfer of his Scheme benefits as being £11,306.
- He had experienced a loss of interest from the delayed transfer of his benefits which he estimated to be £12,900.
- In relation to the CETV illustration requested on 24 April 2017, when it was provided by JLT it was wrong. It included factual errors in the calculation. The correct information was not provided until 28th September 2017.
- After receipt of the CETV illustration, the Adviser and TP had needed to request additional information from JLT, even though this information had been originally asked for. This information was required as TP did not have sufficient details to complete its analysis.
- JLT had falsely claimed that it did not have an LOA allowing it to release information to TP. However, this had been sent to it on 22 July 2014. Regardless of that, it could have been more proactive and sent the information that had been requested by TP to him or the Adviser.
- Due to the maladministration by JLT, the Adviser had to request a further CETV illustration. This was provided by JLT in January 2018.
- On 16 January 2018, he had made contact with the Scheme's pension manager. She had said that she was appalled by the service he was receiving from JLT.
- The delays the Adviser was subjected to by JLT and the Trustee had to be managed by the Adviser in order to protect his professional relationship with TP. Once the Adviser was satisfied that he had the correct information to proceed, TP produced its analysis and the transfer of his benefits took place.
- JLT has deliberately tried to cover up its mistakes and shortcomings in its responses to his complaint.

67. I note the additional points raised by Mr L, but I agree with the Adjudicator's Opinion.

## **Ombudsman's decision**

68. Mr L's complaint concerns the delays that he and the Adviser encountered when requesting late retirement and transfer information from JLT. The information was required to enable the Adviser to arrange an analysis of Mr L's options in relation to his Scheme benefits. Mr L said that these delays resulted in him being unable to make his benefit choice when he wanted to and caused him a financial loss. He also said that he had suffered considerable stress and frustration, and both he and the Adviser have had to put extra time and effort into his case.
69. Mr L said in his original complaint that JLT made crucial errors and omissions in the information that it provided to him and the Adviser. Having reviewed Mr L's case file, I agree with the Adjudicator that there is no evidence of JLT making any errors or omissions.
70. When providing his feedback on the Adjudicator's Opinion, Mr L again stated that errors and omissions had been made by JLT. However, when the Adjudicator asked him to provide evidence of these errors and omissions, Mr L was not able to do so. As no evidence of errors and omissions by JLT has been provided, I consider that, on the balance of probabilities, the information that it provided was largely accurate and complete.
71. I turn now to the delays that Mr L and the Adviser encountered and the late retirement illustration that JLT provided. The late retirement illustration was requested on 24 April 2017 and sent to Mr L on 30 June 2017. The time taken to provide the illustration was just over two months and, while this is longer than I would expect, I am satisfied that this was not an exceptional delay.
72. It was not until 14 August 2017, over six weeks later, that the Adviser raised some questions on the retirement illustration. He asked for confirmation of the pension, the maximum PCLS and the residual pension, together with details of whether the pension would be increased due to its late payment. He also said that the pension quoted in the illustration was at age 63, Mr L's normal pension age, which he had attained in May 2012.
73. JLT responded to the Adviser's questions in its letter of 14 September 2017. This resulted in a further delay of a month. However, all the answers to the questions raised by the Adviser had been provided previously by JLT in the late retirement illustration that it had issued to Mr L on 30 June 2017. This illustration pack quoted late retirement figures based on a retirement date of 1 July 2017. The Adviser's comment that the information he was looking at was as at May 2012 would suggest that he was not looking at the latest retirement illustration pack.
74. On 6 September 2017, TP raised some further questions with JLT. It asked for the commutation factors at ages 63 and 69, the late retirement factor at age 69 and also for an immediate retirement illustration. This request for information was made over nine weeks after Mr L had been sent the late retirement illustration pack. The fact that

TP asked for an immediate retirement illustration would suggest that it did not have access to the information provided to Mr L in June 2017.

75. On 14 September 2017, JLT responded to the Adviser in relation to the questions raised by TP. It provided a full response apart from the late retirement factor at age 69 as it had to request this from the Actuaries. It also provided a copy of the retirement pack issued to Mr L on 30 June 2017. The late retirement factor at age 69 together with a response to questions raised by TP relating to the VFM pension were provided to the Adviser on 28 September 2017. The information requested had been provided promptly by JLT except for the late retirement factor at age 69 which was provided within three weeks, which was not an excessive delay.
76. Turning now to the CETV illustration, this was requested on 24 April 2017 and provided on 2 August 2017. This took longer than the three-month period required by the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013. So, while I would consider this to be maladministration, I acknowledge that it was only just over a week late and it had been delayed due to the calculation having been with the Actuaries for over a month.
77. On 25 October 2017, the Adviser asked JLT for an extension to the CETV guarantee date. Despite him regularly chasing for a response and a number of broken promises from JLT, it was not until 3 January 2018 that JLT confirmed that it would issue a new CETV illustration pack free of charge. This was then provided on 15 January 2018.
78. I acknowledge the frustration that these delays would have caused Mr L and the Adviser. However, it should not have been necessary for the Adviser to request an extension to the guarantee period. I find that there was adequate time before the guarantee expired for information to be gathered and the analysis of the options available to Mr L to be completed. The main reasons that this did not happen were that:-
  - The Adviser and TP asked JLT for information that JLT had already provided to Mr L in June 2017.
  - Questions were being raised in relation to Mr L's retirement benefits more than nine weeks after JLT had provided him with a late retirement illustration.
79. Mr L has detailed the financial losses that he has suffered. These include both direct losses due to the delay in the payment of the CETV and losses due to financial arrangements that he has said that he had to make as a direct result of the delay in him being able to make his benefit choice.
80. I find that JLT cannot be considered responsible for these losses. It was not the main cause of the delays that resulted in the benefit analysis for Mr L not being completed before the guarantee on the CETV illustration expired.
81. I find that Mr L did suffer some non-financial injustice due to a number of deadlines that were missed by JLT and its slow responses to some requests. Some of these

requests were duplicating information that had already been provided and others should not have been necessary. However, that does not excuse the distress and inconvenience that Mr L would have suffered.

82. I note that the Trustee has already offered Mr L £1,000 for the serious distress and inconvenience that he has suffered. I am satisfied that the award offered by the Trustee is sufficient in the circumstances.
83. If Mr L wishes to accept the Trustee's offer of 16 January 2019, he should contact it directly.
84. I do not uphold Mr L's complaint as a sufficient offer has been made by the Trustee.

**Anthony Arter**

Pensions Ombudsman  
3 September 2021