

Ombudsman's Determination

Applicant	Mr R
Scheme	Hogg Robinson (1987) Pension Scheme (the Scheme)
Respondents	Hogg Robinson Pension Scheme Limited (the Trustee) Xafinity

Outcome

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

Complaint summary

2. Mr R's complaint concerns the delays that occurred when trying to transfer his pension benefits (**his benefits**) away from the Scheme. He asserts that he has incurred a financial loss because of the delays, as the cash equivalent transfer value (**CETV**) of his benefits had reduced before the transfer was completed.

Background information, including submissions from the parties

3. Mr R was a deferred member of the Scheme. On 14 July 2016, his financial adviser (**IFA**) requested a CETV quotation and additional details of Mr R's benefits in the Scheme.
4. On 19 September 2016, Xafinity, the Scheme administrator, provided the IFA with a CETV quotation (**the September CETV**), and the other information requested. The value of the September CETV was £824,941. The September CETV was guaranteed for three months, with an expiry date of 12 December 2016.
5. On 26 September 2016, Heather Dunne Consulting Limited (**HDC**) who was assisting the IFA with gathering information concerning Mr R's benefits, requested additional information from Xafinity.
6. On 25 October 2016, Xafinity provided the requested information to HDC.
7. On 4 November 2016, HDC raised further queries with Xafinity to which Xafinity responded on 21 November 2016.

8. On 19 December 2016, HDC sent Mr R its report (**the Report**) on the comparison of his benefits.
9. On 20 December 2016, Mr R received the Report. He said that it was through the Report that he became aware that the September CETV had expired. Following this, there were further exchanges between Xafinity, HDC and Mr R about Xafinity extending the guarantee period of the September CETV, and Mr R's CETV having to be recalculated.
10. On 20 January 2017, Mr R received a recalculated CETV quotation of his Scheme benefits (**the January CETV**). The value of his CETV at that time was £709,689.
11. On 18 February 2017, Mr R complained through stage one of the Scheme's Internal Dispute Resolution Procedure (**IDRP**). He was unhappy that Xafinity had not agreed to extend the guarantee period of the September CETV, and that the value of the January CETV was lower than the value of the September CETV.
12. On 5 April 2017, the Trustee sent Mr R its IDRP stage one decision. It provided a background of the events that occurred and responded to the points Mr R had raised, and these are detailed below:-

Summary of the Trustee's comments in relation to the delay

- Xafinity's response time to the first set of queries it received from HDC was slower than the Trustee would have liked. However, the time limit on the September CETV did not start to run until Xafinity had sent that quotation.
- It was the difference between the September CETV and the January CETV that was the issue.
- The response to the two subsequent sets of queries from HDC were answered by 21 November 2016. This was more than three weeks before the expiry of the September CETV.
- The bulk of the information which HDC had requested was provided at the outset, including all the statutory CETV information. The subsequent queries could have been raised earlier as they did not appear to have related to, or followed on from, the answers to the initial information.

Summary of the Trustee's comments in relation to CETVs

- The CETV guarantee period of three months is a statutory time period. It is set by legislation and not controlled by the Trustee or Xafinity. Once the guarantee period has expired, there is no statutory mechanism to extend it.
- Given that: (i) HDC was aware of the three month deadline when the September CETV was issued; (ii) all of the statutory information had been supplied at the start of the guarantee period; and (iii) all supplementary questions raised by HDC had been answered more than three weeks prior to the expiration of the September

CETV, it did not feel there was a valid reason for the Trustee or company to make good any difference between the September CETV and the January CETV.

- It felt that HDC had three months in which to consider all the relevant statutory information, which it considered was adequate time to advise Mr R and receive his instruction to accept the September CETV, had he been minded to do so.
 - CETV values were subject to financial factors which changed on a monthly basis. The purpose of those factors was to place a fair financial value on Mr R's benefits available from the Scheme, at a particular time. Those factors changed over time and as such the resulting CETV values differed.
 - It appreciated that the January CETV was lower than the value of the September CETV. However, the value of the Scheme benefit which it reflected was correct on both occasions.
 - Mr R did not have to accept the January CETV. He was able to request further quotations if he wished. Those quotations may have had higher or lower values at later dates, but they would have always reflected an "appropriate and fair" value of his benefits payable from the Scheme at the time.
 - The Scheme's standard practice is to allow members one free CETV quotation per year. Any more than this and a charge is applicable.
 - However, it had agreed with Xafinity not to impose a charge if Mr R wished to request a number of CETV quotations over the next 12 months, to assist him in his transfer considerations.
13. On 19 May 2017, Mr R was sent another CETV quotation of his Scheme benefits. The value of his CETV at the time was £741,256. Mr R accepted this CETV quotation, and this amount was transferred to his chosen arrangement on 18 August 2017.
14. On 3 September 2019, Mr R appealed the stage one IDRPs decision through stage two of the IDRPs. He provided a timeline of the events that occurred and made some additional points which are detailed below:-

Summary of Mr R's comments in relation to the stage one IDRPs decision

- He apologised for the length of time it took for him to reply, and explained his reasons for the delay.
- He believed the IDRPs stage one decision was unfair and he wanted the value of the September CETV to be honoured. He had effectively suffered a loss of £83,685.
- The Trustee's IDRPs stage one decision offered him free CETV quotations for a year. Fortunately, rates had changed and he was quoted a new CETV of £741,256.

- He felt he had no choice but to accept the revised CETV or risk losing this value due to changing rates.
- He made the decision to transfer his benefits out of the Scheme, in early January 2017, as he still wanted to transfer his benefits to a personal pension plan (**PPP**). Xafinity did not agree to honour the value of the September CETV. It recalculated his CETV and the value had reduced.
- He decided to transfer his Scheme benefits while challenging Xafinity's decision not to honour the value of the September CETV. The decision not to honour the value of the September CETV had left him "out of pocket" through no fault of his own.

Summary of Mr R's comments in relation to the delays

- He used the IFA to request a CETV quotation of his benefits in the Scheme. It had to chase Xafinity continuously, from the date of the original request, to obtain the CETV quotation.
- In order to assess the transfer options successfully and be fully informed, the IFA recommended he use a pension transfer specialist to provide advice and the Report. He used HDC for this purpose.
- Due to the delays in obtaining information from Xafinity, HDC was not able to provide him with the Report until eight days after the expiry of the guarantee period of the September CETV.
- Xafinity had never written to him nor informed him of the value of the September CETV or of its expiry date. He only found out these details by reading the Report when he received it on 20 December 2016.
- Xafinity claimed it had met statutory deadlines and that HDC had time to complete the Report between when the last questions were answered on 21 November 2016, and the expiration of the September CETV on 12 December 2016.
- HDC confirmed that two weeks was not sufficient time to finish its process and that the delays were due to Xafinity. Had Xafinity not caused continuous delays, he would have received the Report before the expiration of the guarantee period of the September CETV. He could then have made an informed decision and accepted the value of the September CETV.
- Two weeks was not sufficient for him to consult his IFA and family about the matter and then make an informed decision .
- He did not believe that all statutory duties were followed. This was because:-
 - Xafinity did not send him a copy of the September CETV. So, he was effectively left blind about the "value" and "timelines" of this CETV.

- HDC had asked for the guarantee period of the September CETV to be extended, before the final questions were answered, but Xafinity failed to respond.
 - He did not believe that Xafinity answered all of HDC's queries in a timely manner.
15. On 11 November 2019, the Trustee sent Mr R its IDRPs stage two decision not upholding his complaint. As well as repeating some of the points it made in its IDRPs stage one decision it made some additional comments. In summary it said:-
- The September CETV was issued in line with The Occupational Pension Schemes (Transfer Values) Regulations 1996 (**the Regulations**).
 - The Regulations state that if a request for a statutory CETV is made, a CETV must be issued within three months of the request. In Mr R's case this requirement was met.
 - It did not believe the request for additional information should have prevented the IFA from informing Mr R of the expiration of the September CETV.
 - In his letter of 3 September 2019, Mr R asserted that he was not informed about the timescales for completing the transfer out of the Scheme. However, Xafinity's letter dated 19 September 2016, that was sent to the IFA, confirmed that an application to transfer must be received before the end of the guarantee period in order to secure the transfer value.
 - Mr R should take up the issue of not being informed about the deadline with the IFA directly.
 - The Regulations confirm that once an application to transfer has been received within the guarantee period, a further three months can be granted in order to complete the transfer.
 - These were statutory timescales. As "a self-certified 'pension transfer specialist'" HDC would have been aware of the timescales set out in the Regulations.
 - After reviewing Mr R's case, the Trustee agreed that it was correct not to extend the guarantee period of the September CETV.

Mr R's position

16. As well as repeating some of the comments made in his IDRPs stage two submission, Mr R also provided the comments summarised below.
17. Xafinity is claiming that HDC is at fault, as HDC had sufficient time to complete the Report to allow him to make a decision before the expiration of the guarantee period of the September CETV.

18. He does not know who is responsible for the delay, but either way, he has suffered a financial loss. Either Xafinity or HDC is at fault.
19. He would like the difference between the September CETV and the CETV that was transferred, paid into his PPP.
20. He took “quite a while” to go back to the Trustee formally to agree to the transfer. He wanted to go ahead immediately after receipt of the Report, but it was received after the expiration of the guarantee period of the September CETV.
21. He was told there was no reason why Xafinity should not honour the value of the September CETV, given the delays that HDC had encountered when dealing with Xafinity.

The Trustee’s position

22. The Trustee reiterated some of the points it had made in its IDRPs stage one and two decisions. A summary of its additional points are provided below.
23. The Trustee had reviewed the complaint again and was confident that its decision was based on the available facts of the case and was correct. It maintained that it acted fairly, in line with legislation and good practice, and responded in good time to HDC’s information requests.
24. The Trustee was mindful of Mr R’s position and looked to assist him where it could by providing the additional CETV quotations.
25. The initial information request received from HDC, was nine pages long with multiple part questions. When this information was provided to HDC, along with the September CETV, Xafinity also sent a copy of the Scheme booklet and Summary Funding Statement. This provided HDC with a comprehensive list of information.
26. Xafinity could have responded to the IFA’s initial request for a CETV quotation and other information sooner. However, this did not impact on the guarantee period for the September CETV, which is the crux of the complaint, as this did not start until the information was sent to the IFA.
27. The Trustee was surprised to receive Mr R’s stage two IDRPs complaint some two and a half years after the stage one IDRPs response was issued, and after Mr R had transferred his benefits out of the Scheme in August 2017.
28. Although the Scheme's IDRPs policy clearly states that a stage two complaint must be made within six months of the stage one IDRPs response, the Trustee still decided to consider Mr R's complaint at stage two.
29. The Trustee provided Mr R with three further CETV quotations before he made the decision to transfer his benefits out of the Scheme.
30. On 26 September 2016, HDC submitted some specific questions. Due to their technical nature, some of those questions needed to be referred to other teams within

Xafinity to answer. As part of a robust administration process, all of this information needed to be collated and checked before it was issued.

31. The response times vary dependent on the complexity of the information being requested. For a standard request that the “admin team can process” it is 10 working days. But where more complex calculations are involved and referrals to other teams for calculations have to be made, the timescales can be longer.
32. In any case, the final response issued to HDC, in answer to its third set of queries was sent on 21 November 2016. The Trustee's view was that this gave HDC sufficient time to finalise the Report, prior to the expiry of the guarantee period of the September CETV.
33. Although HDC was not a party to the complaint, it provided: a timeline of the events that occurred; copies of email exchanges between itself, Mr R, the IFA, and Xafinity between 21 February 2017 and 6 June 2017. It also provided some comments, a summary of which is below.

Summary of HDC’s comments in relation to its process

34. It was not authorised by the Financial Conduct Authority (**FCA**). It was not an adviser firm but provided technical pension support and training to advisers who had pension transfers permissions.
35. Its clients included Heather Dunne which was an authorised firm trading as HDIFA (**HDIFA**). HDIFA was a pension transfer specialist firm, and received introduced cases from authorised firms which did not have pension transfer permissions but did have clients who required assistance with pension transfers.
36. Blakes Financial Management (**Blakes**) signed a formal introducer agreement with HDIFA on 26 November 2014. Blakes was the introducing IFA on Mr R’s case.
37. HDC was not advising on the transfer, merely putting together a comparison of the Scheme benefits to facilitate discussions between the IFA and Mr R, to enable Mr R to decide if he wished to proceed with full advice and agree the associated costs.
38. HDC and HDIFA communicated everything via the IFA. This was to prevent it from inadvertently being considered to be giving advice to clients such as Mr R.
39. It was not HDC’s place to inform Mr R of the expiry date on the September CETV. HDC was not authorised and so not able to deal directly with individuals.
40. HDC’s contract was with the IFA. At the time that the September CETV was sent, Mr R had not appointed HDIFA to arrange the transfer, so his IFA remained Blakes. HDC therefore kept the IFA fully informed and the IFA in turn liaised with Mr R.

Summary of HDC’s comments in relation to the delays

41. On 21 September 2016, it sent a copy of the letter it had received from Xafinity that day, by email to the IFA. That email stated:

“Unfortunately, this is unlikely to be the last piece of information we will require from the scheme, once it has been reviewed, we will be able to advise further.”

42. It first requested information from Xafinity on 15 July 2016. It took Xafinity two months to provide an incomplete transfer pack, which did not include the full details of Mr R’s pension at date of leaving. The final piece of information was received on 24 November 2016, over four months later.
43. The transfer pack confirmed the expiration date of the September CETV quotation was 12 December 2016. It was not the first CETV quotation the IFA or Mr R had received. They were both aware that the standard guarantee period was three months.
44. On 26 September 2016, it sent another email to the IFA explaining the details received had been reviewed, but as expected were incomplete and so more information was needed.
45. On the same date it requested that Xafinity provide details in relation to ill health early retirement, as it had been informed Mr R wanted to transfer because he was concerned about longevity, and the low value available from the Scheme on his death. It needed to ascertain full details of what could be available to properly assess the Scheme benefits.
46. It also requested other basic details about the Scheme design not included in the transfer pack. This included details of the death benefits, which were exceedingly pertinent to the advice in this case. And, details about early and late retirement, partial transfers, and other details the FCA expects pension transfer specialists to hold before giving pension transfer advice.
47. The information required had been requested at the outset. Subsequent requests were simply the relevant portions of the original request which had not been answered. In short, it had not asked for anything it had not previously requested.
48. On a further review of the information provided on 4 November 2016, it came to light that Mr R had “Barber equalisation benefits”. Different schemes effect this equalisation in different ways so this had to be queried. The other aspect queried was the reduction in spouse’s pension because Mr R’s wife was just over ten years younger than him.
49. Both of these queries were raised in a telephone call to Xafinity. HDC was advised that it was not possible to provide the proper complete split of benefits at date of leaving over the telephone. On 4 November 2016, it sent emails to Xafinity confirming both conversations and requesting the information. It then chased the response to those questions on 11 and 18 November 2016.

50. It had sent the IFA an email update on each occasion. It did not receive a response from Xafinity confirming the details of the Barber Period benefits (**the Barber Period**) and the reduction for a young spouse until 24 November 2016.

Summary of HDC's comments in relation to the Report

51. There was no set timescale to prepare the Report for clients once all the relevant information had been received. All cases were worked as quickly as possible, in date order. Each case was put through a series of steps and checked and double checked at each stage.
52. Its belief was that it was more important for the Report to be accurate and complete than completed quickly. At the same time, it clearly endeavoured to prepare reports as quickly as possible and had "a very structured, repeatable" process to achieve that.
53. It had asked Xafinity for an extension of the guarantee period of the September CETV, to enable it sufficient time to complete the Report and allow Mr R to consider it and make an informed decision.
54. After numerous chaser calls, Xafinity replied on 20 January 2017, confirming there was no facility to extend the guarantee period of the September CETV.
55. The final review of Mr R's case was completed on 7 December 2016, and it updated the IFA three working days later, on 12 December 2016. It also reminded the IFA that the deadline on the CETV quotation was the same date.
56. It needed a month from obtaining the final information to prepare the Report, get all the documentation issued to the client and returned.
57. The Report was drafted on 15 December 2016 and issued on 19 December 2016. The Report was not advice to transfer or not, but was instead a full evaluation of the comparative benefits to facilitate the IFA's discussion with Mr R, and ensure that Mr R was fully informed of the Scheme benefits prior to considering a transfer.
58. After the Report was issued on 19 December 2016, the IFA and Mr R completed the Pension Review Questionnaire, and signed acceptance to HDIFA's Terms of Business on 6 January 2017.
59. The Initial Letter or Client Agreement was prepared and issued with details of the actual fees involved on 10 January 2017. That was signed on 15 January 2017 and received on 26 January 2017. That was the point at which HDIFA was formally appointed to provide advice on the transfer.

Adjudicator's Opinion

60. Mr R's complaint was considered by one of our Adjudicators who concluded that further action was required by the Trustee. The Adjudicator's findings are summarised below.

61. There were two periods of delay in relation to Mr R's case.

Delays before the September CETV was sent

62. The IFA initially requested a guaranteed CETV quotation from Xafinity on 14 July 2016. Xafinity sent the guaranteed CETV quotation to the IFA in September 2016.

63. The Regulations state that a guaranteed CETV quotation should be provided within three months of a member's request. In the Adjudicator's opinion, it would have been beneficial if Xafinity had provided the CETV quotation to the IFA sooner. However, the CETV quotation was provided within the timescales prescribed in the Regulations. So, it was the Adjudicator's opinion that there was no maladministration by Xafinity in this regard, and that no financial loss had occurred.

Delays after the September CETV was sent

64. The September CETV quotation was dated 12 September 2016, and was guaranteed for three months. Therefore, for Mr R to have been entitled to the value of the September CETV, he needed to return the relevant paperwork to Xafinity by 12 December 2016.

65. Following receipt of the September CETV, HDC requested additional information from Xafinity on two separate occasions, 26 September 2016 and 4 November 2016. However, it took Xafinity 21 and 11 working days respectively, to provide the requested information.

66. The Trustee has confirmed, as detailed in paragraph 31 above, that the timescales to respond to request for information varied, depending on the complexity of the information requested. However, in the Adjudicator's view, the length of time Xafinity took to provide the additional information to HDC, following its request on 26 September 2016, was unreasonable.

67. The Adjudicator created a revised timeline, to establish if but for Xafinity's delay, Mr R would have returned the required paperwork to facilitate the transfer, prior to the expiration of the guarantee period of the September CETV. The Adjudicator's revised timeline is set out in the Appendix.

68. HDC confirmed that it usually needed a month from receipt of the final information to prepare the Report. Based on this, it was the Adjudicator's view that had there been no delay by Xafinity in providing the requested information, Mr R would not have been able to return the completed paperwork prior to the expiration of the guarantee period of the September CETV.

69. Based on the Adjudicator's revised timeline, had there been no delay by Xafinity, the earliest that HDC would have been able to complete and send the Report to Mr R would have been 2 December 2016. However as detailed in paragraph 57 above, HDC explained that this report would not have been advice to transfer. Instead it would have been a full evaluation of the comparative benefits to facilitate the IFA's

discussion with Mr R, and ensure that Mr R was fully informed of the Scheme benefits prior to considering a transfer.

70. Based on this, it was the Adjudicator's view that on the balance of probabilities, even if there had been no delay by Xafinity in providing information to HDC, Mr R would not have been able to return the relevant paperwork by the deadline of the guaranteed CETV.
71. Based on the Adjudicator's revised timeline, there would have been six working days between the date the Report was sent (2 December 2016), and the expiration of the guarantee period of the September CETV (12 December 2016). In the Adjudicator's view, this would not have been sufficient time for Mr R to have: (i) met with the IFA to discuss the Report; (ii) discuss his decision with his family; (iii) appoint HDIFA to provide advice on the transfer; and (iv) return the relevant paperwork to Xafinity by the deadline.
72. So, it was the Adjudicator's view that Xafinity's delay did not result in Mr R being unable to return the relevant paperwork before the expiry of the guaranteed period of the September CETV.
73. Notwithstanding this, it was the Adjudicator's view that Xafinity's delay in providing a response to HDC's 26 September 2016 request for information was unreasonable, and this has caused Mr R non-financial injustice in the form of distress and inconvenience. So, the Trustee, who has ultimate responsibility for the Scheme, should pay Mr R an award in recognition of this. The Adjudicator recommended that the Trustee should pay Mr R £500, for the significant distress and inconvenience he had experienced.
74. Mr R did not accept the Adjudicator's Opinion. In response he provided further comments from himself and his IFA. These are summarised below.

Summary of Mr R's comments concerning his financial loss

75. He argues "in the strongest of terms" that he has suffered a financial loss. This is the reason he referred his complaint to the Pensions Ombudsman (**the Ombudsman**), as advised by his advisers.
76. He has incurred a loss of approximately £84,000, and has also suffered "considerable suffering, anxiety and inconvenience," none of which the Adjudicator had assessed. The loss will also affect his future pension and benefits, and will no doubt cause him ongoing stress and worry in the future without the full financial security of the original transfer value.
77. The Adjudicator simply took the view that his case was similar to other cases. He finds it difficult to understand the Adjudicator's reasons for this view. £500 does not compensate him adequately for his loss of over £80,000 on the transfer value and the "past, present and future" suffering.

Summary of Mr R's comments in relation to the delay

78. He disagrees with the Adjudicator's timeline as it is an assumptive/hypothetical timeline and not based on fact. HDC also stated that there were errors of assumption in that timeline, around its service's time scales and what is needed to complete the process successfully.
79. He believes that if the Adjudicator were to redraw the hypothetical timeline based on HDC's experience on how long these things take for its administration, he would have had time to expedite and accept the September CETV. The whole process was likely to take less than a month from start to finish upon receiving all the information.
80. He believes that if Xafinity had been running an efficient and effective administration unit, and had not been falling back on minimum performance standards and statutory duties, all the information would have been provided in time for him to have made an informed decision concerning the September CETV. "We will never know what might have happened" if Xafinity had delivered the information in a timely manner. He knows that HDC believes it could have been concluded effectively.
81. It is also clear that the extensive delays caused by Xafinity's poor administration were documented immediately and upfront and was the reason why it offered to do future transfer values each month following. Yet it does not want to honour the September CETV.
82. The three month window is for everyone to do the necessary work and not just for Xafinity to respond. The timeline from HDC is for the whole process. He agrees with all the comments made by HDC and disagrees with Xafinity's statement that the questions should have taken 21 days to be answered.
83. Xafinity is paid significant fees and is "supposedly" an expert at these matters. It should be working in the best interest of members and providing the required information in a timely manner. There is something seriously wrong with the process, if as the Adjudicator stated, based on her hypothetical timeline, there was no way the deadline could ever have been met.

Summary of his comments concerning HDC's involvement

84. HDC documented all its proactive chasing, and how it did its level best to get all the data from Xafinity in a timely manner. HDC was the authorised company for dealing with the CETV and did everything in its powers to get the information to him in a timely way. It clearly shows Xafinity's delays were not just the 21 days, but an ongoing poor level of customer service.
85. HDC had a considerable amount of work. 20 days for all the comprehensive work it needed to do was under industry norms and is still under industry benchmarks where current advisers are taking 28 days. The 20 days was the time needed to write the Report and findings, and gather all the information, it was not a delayed process but the time it takes to produce such a comprehensive report.

86. Xafinity had to provide the scheme benefits but HDC had to write the comparison Report, which is a considerably detailed document. Xafinity's delays meant that HDC did not have all the time it should have had to get the information together. Being at the end of the process HDC had constrained timelines to respond.
87. HDC was the authorised adviser to do all the work with Xafinity. Blake kept in touch with HDC throughout. It appears like the blame is being shifted from Xafinity and its poor administration.

Mr R's comments on the September CETV

88. When he became aware that the guarantee period of the September CETV had expired, he challenged it immediately. He was reassured that it could be resolved and an extension to the guarantee period of the September CETV could be requested. It was felt that the Trustee would honour the request for an extension because of all the delays.
89. He could not base a decision solely on the amount of the CETV. He needed the Report to consider his position properly. It would not have changed the delays that Xafinity had caused, and HDC would still have needed the time to prepare the Report.
90. He still cannot believe that given all the evidence, the September CETV is not being honoured. It is his "basic human right" to have been able to accept or decline the September CETV. The administration and service providers should be running services that allow for appropriate timelines to be met, to allow the customer to make an informed decision.
91. He is also very concerned by the fact that the fair value for his benefits can change so dramatically in the space of three months, from £824,941 to the initial revised CETV of £709,689. He queried how "fair value" could shift by nearly 14%.
92. Subsequent to the Opinion, HDC made some additional comments.

Summary of HDC's comments concerning the advice process

93. The Adjudicator indicated that it needed a month to prepare the Report, however, it said it needed a month to undertake the advice process, which is quite different. That entails preparing the Report, allowing the introducing IFA to present it to the client and allowing the client time to think and make an informed decision before completing the extensive documentation involved.
94. The documentation then has to be sent to the advising pension transfer specialist who has to ensure it is all complete and correct. In this case that was HDIFA. HDIFA would then have had to submit the paperwork to the receiving scheme, which would then have had to countersign to accept the transfer, and then submit the paperwork to the Xafinity.

95. In many cases, because schemes still insist on a “wet signature,” this all has to be undertaken by post. Some schemes will accept scanned copies by email, but only if the originals arrive within a few days.
96. That basically means preparing the Report within a week or ten days to allow the client and IFA a week to meet, and the new provider and scheme a week to undertake their administrative tasks. It noted that Xafinity and the Trustee think three weeks is long enough to undertake this work. This simply confirms they have no understanding of what is involved.
97. Virtually all schemes have standard turnaround times of five to ten days to issue responses to any questions. That means it takes them two weeks to open an email and issue a standard document with scheme information on it by email.
98. It had become clear to it, over thirty plus years in the industry, that schemes, providers and the like, have very little understanding of how complex, time consuming and individual the advice process is. Each and every case has to be analysed, assessed, documented and an individual report drafted, checked and presented.
99. The fact it regularly managed to achieve that within less time than it takes the schemes to issue a standard document is a testament to how hard advisers work, not evidence that it is a similar type of task.

Summary of HDC’s comments concerning information that should be included in a statement of entitlement

100. Xafinity admitted that the Barber Period query had to be referred to someone senior, which is why it took longer to answer. It wasn’t a standard bit of information held on the computer system.
101. It should be a standard bit of information. It is part of the basic information regarding member’s benefits at date of leaving, which should be included within the statement of entitlement, which it is obliged to issue within three months of request.
102. The disclosure information legislation do specify certain pieces of information, including details of the benefits at date of leaving, which should be set out in the statement of entitlement. HDC requested that information in July 2016, it was not included in the transfer pack, which did not detail the split of the benefits in relation to the Barber Period. The request in July 2016 did specify that was required, because scheme administrators all too frequently omit it. The subsequent specific request on 26 September 2016 was not for additional information, but for data omitted by Xafinity in their original response.
103. Xafinity therefore did not comply with the disclosure legislation, which imposes a three month deadline on the trustees on whose behalf they were working. The Adjudicator appears to have missed this point, as does virtually everyone who looks at these types of cases. It appreciated that the Ombudsman could only impose certain financial compensation payments. However, the system does appear

inequitable. If it had been held responsible for any oversight even relating to rules introduced after the event, it would have been obliged to fully compensate the client.

104. Xafinity, which holds itself as an expert in providing scheme administration to the Trustee and charges fees commensurate with that expertise, breached legislation which has been in place for many years, and pays a “paltry £500” against the £80,000 financial loss suffered by Mr R.
105. At the same time, it was “heartily relieved” that the Adjudicator had taken into account its views and evidence, and concurred that the fault lies with Xafinity rather than take the easy route of blaming the adviser, which does seem to be the default assumption.
106. The Trustee initially accepted the Adjudicator’s Opinion but subsequent to it being informed that the complaint was being referred to me, it provided additional comments which are summarised below.

The Trustee’s additional comments

107. It took Xafinity 21 working days to respond to HDC’s request for additional information on 26 September 2016. The Adjudicator previously asked why it took Xafinity this long and in response it explained that its response time to standard requests is 10 working days.
108. However, the questions raised in HDC’s request were not standard requests (being both numerous and complex). Due to the technical nature of some of these questions, they needed to be referred to other teams within Xafinity to answer. For example, some of these questions related to incapacity benefit options as well as the Scheme’s approach to early and late retirement, which required actuarial input. As part of a robust administration process, all of this information needed to be collated and checked before it was issued.
109. Therefore, it disagrees with the Adjudicator’s revised timeline which suggested that 10 working days was sufficient to respond to the questions raised in HDC’s requests. It believes that 21 working days was a reasonable response time due to the non-standard nature of the request.
110. As neither Mr R nor the Trustee accepted the Adjudicator’s Opinion, the complaint was passed to me to consider. I have noted the additional points made by the parties and I do not agree that an award should be made in respect of maladministration.

Ombudsman’s decision

111. The Adjudicator created a revised timeline based on Xafinity’s service standards, to see if, but for Xafinity’s delay, Mr R would have been able to return the required transfer paperwork to Xafinity before the expiration of the September CETV. Based on this hypothetical timeline, with which I agree, the Adjudicator concluded that had there been no delay, Mr R would still not have been able to complete the transfer by the expiration of the September CETV’s guarantee period.

112. Mr R and the Trustee disagree with the Adjudicator's hypothetical timeline, for the reasons detailed in paragraphs 78,108 and 109 above.
113. I appreciate that Mr R and his advisers believe that Xafinity should have provided the information sooner than it did. However, I find that it was reasonable for the Adjudicator to have used a hypothetical timeline, and that it was appropriate for her to do so using Xafinity's service standard. Doing so enabled the Adjudicator to establish the earliest date that HDC would have received the necessary information to complete the Report and send it to Mr R, had there been no undue delay.
114. I note the Trustee's comments that it believed it was reasonable for Xafinity to have taken 21 days to reply to HDC's 26 September 2016, request for information. I disagree with the Trustee's comments in this regard. Xafinity should have known that CETVs have a strict deadline of three months. So, taking 21 days to reply to further information requests was not reasonable nor was its lack of communication on this point. It should have ensured that all information requested by HDC was responded to within its service standard. If for any reason its service standard could not have been met, it should have explained the reason for the delay to HDC.
115. HDC has comment that the Barber Period benefits information should have been included in the statement of entitlement, which Xafinity should have issued within three months of request. It is unfortunate that this information was not included with the September CETV quotation, but I do not find that Xafinity's failure to include this information amounted to maladministration or breached any legal requirements.
116. Under Section 93A(1) of the Pension Schemes Act 1993¹ (**the 1993 Act**), trustees must provide a member with a statement of entitlement in respect of the member's transferrable rights in relation to categories of benefits other than money purchase benefits. The statement of entitlement must state the CETV of the category of benefits being transferred. There is nothing in the 1993 Act requiring trustees to give a further breakdown of that category of benefits, as requested by HDC on behalf of Mr R, in relation to the split of benefits for the Barber Period.
117. There are disclosure requirements relating to statements of entitlement in Regulation 11(4) of the Regulations². There is nothing in Regulation 11(4) that requires the trustees to include the split of benefits for the Barber Period in the information accompanying the statement of entitlement. So, there was no maladministration by Xafinity in not providing this information when it had sent the September CETV to HDC.
118. In July 2019, the Pensions Administration Standards Association (**PASA**) published a "Defined Benefit Transfers: A Guide to Good Practice". This guide recommends that CETVs should include the information set out in the transfer template (**the Template**)

¹https://www.legislation.gov.uk/ukpga/1993/48/pdfs/ukpga_19930048_310320_en.pdf

² <https://www.legislation.gov.uk/uksi/1996/1847/made>

published in Appendix 4 of the guide, which includes information about the Barber window/Barber split. However, this is suggested good practice, rather than a legislative requirement, and was not published until July 2019 so is not applicable in Mr R's case.

119. HDC said that it would have taken a week to 10 days to prepare the Report. However, in this case, although it was aware of the expiration date of the CETV, HDC took 12 working days after receipt of the outstanding information from Xafinity to complete the final review of Mr R's case. It then took a further eight days to send the Report to Mr R.
120. On the balance of probabilities, I find that it is more likely than not that HDC would have taken the same time that it did, after receipt of the final information from Xafinity, to review Mr R's case, complete the Report and send it to Mr R. So, the Report would not have been sent to Mr R until 2 December 2016.
121. I recognise that there were delays by Xafinity that should not have occurred but this does not merit the payment of a distress and inconvenience award because, the crucial point is that even had there been no undue delays, and Mr R was sent the Report prior to the expiration of the guarantee period of the September CETV, there have been insufficient time for all the relevant steps (as detailed in paragraphs 93 and 94 above) to be completed, before the expiration of the September CETV. So, the September CETV would have expired the transfer, had there been no delays by Xafinity.
122. I do not find that Xafinity's delay in replying to HDC's 26 September 2016 request for information resulted in Mr R incurring a financial loss.
123. The IFA was aware of the expiration date of the September CETV. It would have been reasonable for it to have communicated this information to Mr R, and inform him of the consequences, if he did not accept this CETV by the expiration date. It does not appear that the IFA did so. The IFA also did not take steps to encourage HDC to complete the final review of Mr R's case and send him the Report sooner than it did.
124. I note Mr R's concern that the value of his CETV could reduce within the space of three months. Trustees are permitted, following actuarial advice, to amend the factors that determine how CETVs are calculated. If Mr R believes the Trustee has not calculated his CETV correctly, he may wish to consult an actuary to check the figures.
125. I do not uphold this complaint.

Anthony Arter

Pensions Ombudsman
23 May 2022

Appendix**Adjudicator's Timeline**

21 September 2016	IFA received September CETV from Xafinity.
26 September 2016 (3 working days later)	HDC requested additional information from Xafinity.
10 October 2016 (10 working days later)	Xafinity sent requested information to the HDC.
20 October 2016 (8 working days later)	HDC requested final information from Xafinity.
4 November 2016 (11 working days later)	Xafinity provided the requested information to HDC.
22 November 2016 (12 working days later)	HDC completed final review of Mr R's case.
2 December 2016 (8 working days after final review of Mr R's case)	HDC sent the Report to Mr R.
12 December 2016 (6 working days later)	Guarantee period for the September CETV expired.

Actual Timeline

21 September 2016	IFA received September CETV from Xafinity.
26 September 2016 (3 working days later)	HDC requested additional information from Xafinity.
25 October 2016 (21 working days later)	Xafinity provided requested information to HDC.
4 November 2016 (8 working days later)	HDC requested additional information from Xafinity.
21 November 2016 (11 working days later)	Xafinity provided the response to HDC.
7 December 2016 (12 working days later)	HDC completed final review of Mr R's case.

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12 December 2016 (3 working days later)	Guaranteed period for the September CETV expired.
19 December 2016 (8 working days after final review of Mr R's case)	HDC sent Mr R the Report.