

Ombudsman's Determination

Applicant	Mrs D
Scheme	GE Capital Pension Scheme (the Scheme)
Respondents	GE Pension Trustees Limited (the Trustee) Aon Limited (Aon) Willis Towers Watson (WTW)

Outcome

1. Mrs D's complaint against the Trustee, Aon and WTW is partly upheld.
2. To put matters right, the Trustee and Aon, shall within 21 days of the date of this Determination, each pay Mrs D £1,000 in recognition of the severe non-financial injustice which she has suffered dealing with this matter.

Complaint summary

3. Mrs D has complained that:-
 - Aon, the former administrator of the Scheme, provided her with a quotation in April 2018 on behalf of the Trustee showing incorrect information regarding the early retirement benefits available to her from the Scheme upon which she relied to her considerable financial detriment.
 - WTW, the current administrator of the Scheme, subsequently failed to provide her with a revised early retirement quotation in a timely manner which has caused her additional distress and inconvenience.

Background information, including submissions from the parties

4. Mrs D joined the Scheme on 1 June 1988. She became a deferred member on 30 November 1991.
5. In March 1992, Mrs D received a benefit statement showing that:
 - the deferred pension available to her at date of leaving (**DOL**) was £1,811.28 per annum; and

- the estimated pension payable from her Normal Retirement Age (**NRA**) of 65 was £11,952.84 per annum.
6. In April 2016, Aon sent Mrs D a benefit quotation (**the April 2016 Quotation**) at her request. It showed the same amount for her deferred pension at DOL and her current revalued pension to be £5,382.79 per annum.
 7. In March 2018, Mrs D asked Aon to provide her with details of the benefits available to her from the Scheme assuming she retired (a) early on her 59th birthday in July 2018, and (b) at her NRA of 65.
 8. Aon sent Mrs D a benefit quotation on 5 April 2018 (**the April 2018 Quotation**) which showed that the estimated main Scheme benefits, not including money purchase additional voluntary contributions (**AVCs**), available to her if she retired on 29 July 2018 were as follows:
 - a full pension of £12,473.66 per annum; or
 - a maximum tax-free lump sum of £65,187.78 plus a residual pension of £9,778.17 per annum.

A contingent spouse's pension of £6,236.83 per annum on death after retirement was available with both options.

9. The April 2018 Quotation included the following provisos:

“The benefits quoted are estimates and are not guaranteed – we will let you know the actual amounts once you have confirmed which option you would like to take, and we have all the information we need to work out your benefits...

Your benefits are administered by us...on behalf of the Trustee in line with the Trustee's instructions. We are authorised by the Trustee to pay your benefits in accordance with your entitlement. In the event of a conflict between the figures we have quoted and your actual entitlement, your benefits will be strictly limited to your entitlement as provided in the governing documentation.”

10. Aon also informed Mrs D that it was unable to supply her with a quotation showing the estimated benefits available at her NRA because this was more than 12 months away.
11. Mrs D asked Aon in April 2018, and again in July 2018, to check the figures shown on the April 2018 Quotation. Aon told her each time that they were calculated correctly.
12. On the second occasion, she requested Aon to confirm what it had said in writing. Aon replied in an e-mail dated 31 July 2018 as follows:

“As discussed, we can confirm that the figures quoted in the retirement illustration dated 5 April 2018 are accurate.”

13. In October 2018, Mrs D asked WTW, which had recently taken over the administration of the Scheme from Aon, to provide her with details of the benefits available to her if she decided to retire early on her 60th birthday.
14. In December 2018, Mrs D sought an update on her request. WTW replied that:-
 - It had asked the Scheme actuaries for assistance with the complex calculations of her benefits.
 - It was therefore not yet able to inform her when a new quotation would be sent.
 - It would like to apologise to her for any inconvenience caused by the delay.
15. WTW sent Mrs D a quotation on 20 March 2019 (**the March 2019 Quotation**) which showed that she was entitled to the following estimated benefits from the Scheme if she retired early on 29 July 2019:
 - a full pension of £5,999.88 per annum; or
 - a maximum tax-free lump sum of £31,185.53 plus a residual pension of £4,677.84 per annum.

A contingent spouse's pension of £2,999.94 per annum on death after retirement was available with both options.
16. On 2 April 2019, Mrs D asked WTW to explain why its figures were considerably lower than those provided by Aon in the April 2018 Quotation.
17. WTW replied on 9 April 2019 that its figures were correct, and it was Aon which had made mistakes in its calculations.
18. In her letter dated 2 May 2019 to WTW, Mrs D said that:
 - She relied on the higher benefit figures shown on the April 2018 Quotation when making her decision to close the consultancy business which she had operated for around 20 years.
 - After preparing detailed projections of her personal finances, she determined that she could sacrifice her business income and just about make ends meet until she was in receipt of her State pension, based on the figures supplied by Aon.
 - She took every reasonable step to ensure that she had received the correct information about the early retirement benefits available to her from the Scheme before making this difficult life changing decision.

- The delay in providing her with the March 2019 Quotation exacerbated matters because she had continued to invest her time and savings to reskill herself in the interim.
 - The early retirement benefit figures shown on the March 2019 Quotation were less than half those shown on the April 2018 Quotation and had left a massive gap in her income projections.
19. On 13 May 2019, WTW confirmed to Mrs D that the figures shown on the March 2019 Quotation were correct and provided her with full details of Aon's mistakes.
 20. Mrs D made a complaint under the Scheme's Internal Dispute Resolution Procedure (IDRP) which was not upheld by the Trustee in July 2019.

Mrs D's position

21. She was misled by the incorrect benefit figures shown on the April 2018 Quotation into believing that she could (a) retire early at age 60 and (b) spend her business reserves plus other savings totalling around £20,000 to fund herself until retirement.
22. After closing her consultancy business, she attended two courses in enterprise training held in developing countries and delivered her first training in South Sudan. This was entirely self-funded with a total cost of around £5,000.
23. Her consultancy had provided an average annual income of £46,500 based on its last five years of trading. If she had not closed her business, she would have earned a further 10 months' income from her business before attaining age 60.
24. She has supplied copies of (a) documents evidencing the financial expenditure that she has incurred and (b) financial statements and other information relating to her business in support of her claim.
25. Without a consultancy business which she can return to, she cannot pay additional National Insurance Contributions for her State pension.
26. She says that:

“...I realised the quotation in April 2018 was quite different to the one made in 2016, hence my querying it on several occasions...I am sure I did mention the difference in the values hence wanting to be completely sure of the position. I also consulted an IFA who advised me to check again.

My actions were taken after being informed on several occasions that the quotation was correct. I also chose to wait over 12 months before taking the pension. During this time, the error could and should have been picked up by Aon.

I also confirmed what informed my thinking about the difference between the 2016 and 2018 quotations, including the previous employer pension that was rolled into the GE pension, the possibility of AVC's and/or a terminal bonus.

I believe my actions were reasonable in checking information prior to deciding on a life changing decision. I did categorically use the information after having it checked and rechecked and put in writing, to close my business”.

27. The mistake made by Aon has (a) cost her tens of thousands of pounds, (b) left her carefully laid plans in tatters, and (c) led to the early termination of her successful business.
28. To put matters right, the Trustee should assist her to obtain compensation from Aon for the considerable financial losses which she has suffered because of Aon's mistake.
29. WTW should also award her a modest payment for the distress and inconvenience which it caused by taking six months to respond to her request for a new quotation.

The Trustee's position

30. It can only pay Mrs D the retirement benefits available to her from the Scheme calculated in accordance with the Scheme Rules.
31. The incorrect April 2018 Quotation clearly stipulated that the estimated figures shown were not guaranteed and would be overruled by whatever the Scheme Rules provided. It was unreasonable for Mrs D to have relied on the incorrect figures when deciding to close her consultancy business.
32. When Mrs D asked Aon to check the figures shown on the April 2018 Quotation, it replied both times that they were accurate. Aon did not say that the figures were guaranteed. It should have been clear to Mrs D that Aon could not guarantee the figures given the warnings included in the April 2018 Quotation.
33. The April 2016 Quotation showed that her current revalued pension was £5,382.79 per annum. This was less than half the full pension available to her of £12,473.66 per annum, as detailed on the April 2018 Quotation. By comparing these two quotations, Mrs D should reasonably have realised that the benefit figures on the April 2018 Quotation were incorrect.
34. Mrs D's deferred pension at DOL was only £1,811.28 per annum. It was not reasonable for her to expect that she would receive a pension of the size shown on the April 2018 Quotation.
35. The delay in providing her with the March 2019 Quotation was caused by teething problems at WTW after it took over the administration of the Scheme from Aon.
36. It has apologised to Mrs D for the poor administrative service which she received from both Aon and WTW. It has also offered her a goodwill award of £1,000 in

recognition of the significant distress and inconvenience which she has experienced as a consequence of the maladministration attributable to Aon and WTW.

Aon's position

37. Mrs D has not provided a copy of her financial projections demonstrating that the incorrectly overstated benefits detailed on the April 2018 Quotation would provide her with sufficient income until she was in receipt of her State pension for inspection.
38. The benefit figures shown on the April 2018 Quotation were materially different from those on the April 2016 Quotation. It is reasonable to expect Mrs D would have noticed the large discrepancy and brought this to Aon's attention.
39. Aon says that:

"We accept that Mrs D contacted Aon to check that the 5 April 2018 quote was accurate and was sent an email dated 31 July 2018 confirming that it was correct.

Our records show that the member first contacted Aon by telephone on 30 April 2018 as she had received what appeared to be two retirement packs as part of the same document, one showing her figures and another just showing the value of £800 per annum. Aon called the member back and explained that the first 24 pages of the quote were correct and the remaining pages which referred to the £800 were the result of a printing error and should be disregarded.

The member then contacted Aon again on 31 July 2018, she said that she would like the quote sent to her on 5 April 2018 to be checked again to make sure it is correct, adding that her IFA had advised her to get this checked before she proceeds, to make sure the figures shown are the amounts that she will receive.

The team called the member the same day and confirmed the figures quoted were correct and that if the completed form was returned say five to six months after being issued, then the values would need to be recalculated. It was during this telephone conversation that the member asked Aon to send her an email confirming that the figures quoted were correct.

Had Mrs D told the administration team that the values used in the 2018 quote were substantially higher than those sent to her 24 months earlier, then it is likely that the issue would have been investigated by Aon and the error would have been identified sooner.

Aon did not receive any subsequent contact from the member querying the quotes that had been issued, nor did we receive a completed retirement pack from the member to confirm that she intended to take her benefits from the Scheme."

40. It cannot locate recordings of the telephone conversations between Aon and Mrs D except for the one in March 2018 where she requested details of the benefits available to her from the Scheme assuming she retired (a) early on her 59th birthday in July 2018, and (b) at her NRA of 65. It has, however, submitted as evidence the telephone notes made of the other relevant calls.
41. It was unreasonable for Mrs D to have relied on the incorrect April 2018 Quotation in making the financial decisions that she did, given all the other information that was available at the time.
42. Mrs D has not taken any steps to mitigate her financial loss by restarting her consultancy business, for example.
43. For the reasons set out above, it does not consider that Mrs D is entitled to any compensation for actual financial loss.
44. It would, however, like to sincerely apologise to Mrs D for its mistake and offer her a goodwill award of £1,000 in recognition of the considerable non-financial injustice which she has clearly experienced.

Adjudicator's Opinion

45. Mrs D's complaint was considered by one of our Adjudicators who concluded that further action was required by the Trustee and Aon. The Adjudicator's findings are summarised below:-
 - A complaint of negligent misstatement must be based upon an inaccurate statement, usually called a 'representation'. That statement is usually made by spoken or written words, but it can also be made by conduct. The representation must be a statement of past or present fact or, in some circumstances, of the law. It must be clear and unequivocal.
 - In this case, Mrs D had complained that she relied on the April 2018 Quotation showing incorrectly overstated benefits available to her if she retired on her 59th birthday to her financial detriment.
 - In the Adjudicator's opinion, the April 2018 Quotation was not a clear and unequivocal representation. It included a disclaimer which clearly stated that:-
 1. The benefits quoted were estimates only and not guaranteed.
 2. Aon would inform her of the actual benefit amounts once she had confirmed which option she wished to take, and it had all the necessary information to work them out.
 3. In the event of a conflict between the figures it had quoted and her actual entitlement, her benefits would be strictly limited to her entitlement as provided in the Scheme Rules.

- When Mrs D asked Aon to verify the figures shown on the April 2018 Quotation, it replied on each occasion that the figures were accurate. Aon did not say that they were guaranteed in any way. It could not do so because the information provided on the April 2018 Quotation was not a definitive statement of the early retirement pension benefits available to her from the Scheme. It was only a pension forecast.
- If Mrs D decided to enter any financial commitment based on the figures shown on the April 2018 Quotation, it was clear that she would therefore do so at her own risk.
- Although Mrs D received incorrect details of the benefits available to her from the Scheme, it did not confer on her a right to these benefits quoted by mistake. If she had acted to her financial detriment based on the reasonable belief that the figures were correct, then she might be compensated for the harm.
- Aon could be expected to have realised that Mrs D was likely to take a decision based on the information it provided in the April 2018 Quotation. The Adjudicator was therefore prepared to accept, on the balance of probabilities, that she might have acted differently and not decided to close her consultancy business if she had received the correct figures.
- Mrs D contended that she would have continued working if the error had been brought to her attention by Aon before she made her decision to terminate her consultancy business. In this case, the loss that Mrs D could claim was loss in the income and other benefits that she would have received had she remained in employment until such time as she would have retired.
- But if Mrs D suspected that she might have suffered a loss, she had a responsibility to take reasonable steps to mitigate her loss by attempting to return herself as near as possible to the position she would have been in. Then to the extent that she could have mitigated, she could not claim that she had suffered a loss as a result of the mistake made by Aon.
- The Adjudicator had seen no evidence that Mrs D had attempted to seek any form of employment that might make up the shortfall in her salary and her benefits though. Given Mrs D's circumstances, the Adjudicator appreciated that it might have been difficult for her to do so, but, in his opinion, he would expect her to have taken reasonable steps to at least try mitigating her loss.
- It was incumbent upon any member of a pension scheme to ensure that, if fundamentally flawed data was displayed in benefit statements, the relevant person or department be notified so that corrections could be made.

- Mrs D said that she queried the figures on the April 2018 Quotation with Aon several times because she had noticed that they were significantly higher than those shown on the April 2016 Quotation. She contended that she mentioned the marked difference in the values to Aon during the telephone calls. While there was no dispute that she asked Aon to verify the figures, the Adjudicator had seen no evidence which substantiated her assertion that she had explicitly pointed out the discrepancies to Aon. If she had done this, in the Adjudicator's view, it was reasonable to expect that Aon would have discovered the error shortly afterwards, and Mrs D would not be in the unfortunate situation which she now found herself.
- Mrs D also said she thought that the differences between the figures on the two quotations might have been attributable to pension rights which she had transferred in from her previous pension scheme, AVCs and/or a terminal bonus.
- The additional benefits available from her transfer of pension rights was accounted for by Aon in its calculations of the figures shown on both quotations though. Moreover, any further benefits from AVCs would have been provided in a separate AVC arrangement.
- It was most regrettable that the IFA did not explain this to Mrs D or take a more proactive approach in assisting her verify the figures shown on the April 2018 Quotation by, for example, dealing with Aon on her behalf in this matter.
- Mrs D had, in the Adjudicator's view, consequently acted to her financial detriment based on an unreasonable belief that the figures shown in April 2018 Quotation were correct. The Adjudicator did not therefore consider that Mrs D had suffered any actual financial loss based on the decisions which she had made for which she should be compensated.
- It was therefore the Adjudicator's opinion that there had been no negligent misstatement by Aon.
- Like negligent misstatement, a complaint of estoppel must be based upon an inaccurate statement, usually called a "representation".
- As set out above, it was the Adjudicator's opinion that there had been no relevant representation. Aon was consequently not estopped from paying the correct benefits in accordance with the Scheme Rules and ignoring the incorrect overstated figures shown on the April 2018 Quotation.
- The Adjudicator also considered whether the incorrect information constituted maladministration which had resulted in any non-financial injustice such as distress and inconvenience. Even where it was recognised that maladministration had occurred this did not always result in a payment for non-financial injustice.

- There was no dispute that Aon provided Mrs D with incorrect information in the April 2018 Quotation regarding the early retirement benefits available to her in the Scheme. Mrs D should have been given the correct figures and the failure to do so was clearly maladministration on the part of Aon.
- In the Adjudicator's view, the failure of WTW to provide Mrs D with a revised early retirement quotation in a timely manner constituted maladministration on its part.
- Although it was the Adjudicator's opinion that Mrs D had not suffered any actual financial loss as a direct consequence of the maladministration identified above, it was clear that she has experienced severe distress and inconvenience. The Adjudicator noted that the Trustee and Aon had each offered Mrs D a goodwill award of £1,000 in recognition of this. In the Adjudicator's view, this award of £2,000 was equitable and in line with what I would likely direct the Trustee and Aon to pay her.

46. Mrs D did not accept the Adjudicator's Opinion and the complaint was passed to me to consider. Mrs D provided her further comments which do not change the outcome.

47. Mrs D says that:

- "My reliance was not based on the (April 2018) quotation in isolation, but also on the multiple assurances Aon had given that the quotation was accurate. These assurances underpinned my decision. I was completely aware the actual value would be dependent on option choice and when the pension would be taken."
- "A valuation is normally sought to provide an understanding of a likely value. If that value, as is the case here, is questioned over its accuracy, the expectation is that it will be checked for its accuracy. When it is subsequently confirmed to be accurate, then it is not unreasonable to expect the valuation to be a true illustration of likely values depending on whichever option is selected, particularly with, as my IFA advised, the benefits of final salary schemes set in stone..."

A key purpose for requesting a pension valuation is to inform retirement plans. The likely value of my GE pension informed my plans which I acted upon after carefully and diligently checking the facts."

- She had only asked her IFA for an opinion on the pension figures shown on the April 2018 Quotation. The IFA firmly recommended that she seek confirmation of the accuracy of these figures from Aon given the variance with those she had previously received, and to have the response put in writing.
- If Aon had confirmed the true figures, she doubts that she would have closed her consultancy business or used the business reserves to fund the interim period until age 60.

- It was highly unlikely that she would have retired at age 60 given the actual value of her benefits in the Scheme. Until 2018, she did not have any plans to retire at a given age. She would probably have gradually shifted the balance of remunerated and pro bono work which had characterised her working life for many years.
- By the time she received the correct figures shown on the March 2019 Quotation from WTW, she had undergone major surgery and was unable to walk properly or drive. She was also suffering from depression which had been caused by work related stress and found herself “completely unable to re-engage with the psychological demands of the workplace”.
- She has been unsuccessful looking for a new remunerated role and her attempts have been thwarted by her psychological problems and the ongoing Covid-19 pandemic.
- “It is also disappointing Aon is unable to supply more than one recording, particularly as what they can provide only relates to a conversation at the very start of the process.

Although I didn't make my own notes at the time, Aon's notes evidence my memory was clear regarding the events, confirming many of the facts I stated did occur.

I do recall asking at least twice for confirmation of the accuracy of the figures Aon stated in their quotation, and I did this prior to speaking with an IFA. I checked with the IFA and indeed on speaking with him he confirmed this is what I'd stated to him at the time regarding my actions prior to contacting him about the matter. We both recall our conversation about the need to check yet again despite my having already asked twice. I cannot recall when the calls were made and Aon's call logs are the only evidence provided, but Aon's notes do state I asked for the figures to be checked 'again' noting I did not ask for them checked but checked again.

I do also recall stating my requirement to ensure accuracy of the figures because on the basis of the quotation I was making a really important decision and there was a noticeable variance with previous figures received. I am sure I made that point during the conversation in July, although this does not appear in the Aon call log...”

- It is very easy to overlook a relevant point when summarising what was discussed during a call in a telephone note. She may well have disclosed her reason for ensuring with absolute confidence the accuracy of the figures and it was simply not captured in the telephone note.
- “Aon produced the figures. Aon is at fault by not checking their figures when they stated that is what they had done. Had they checked their figures, as they stated they had, they should have picked up the discrepancy. They were in possession

of all the data required to produce and check the valuation, I was not. Aon confirmed several times it had checked the figures and those figures were correct.

Upon receipt, I did not accept the figures, but queried them several times. I do not accept that my actions in checking the valuation were unreasonable and therefore caused me to act to my own financial detriment.”

48. I note the additional points raised by Mrs D, but I agree with the Adjudicator’s Opinion.

Ombudsman’s decision

49. While there is no dispute that there has been maladministration on the part of Aon, the starting point is that Mrs D is only entitled to the benefits provided by the rules of the Scheme. Exceptionally, in cases where incorrect information has been given redress will be provided if it can be shown that financial loss or non-financial injustice has flowed from reliance on that incorrect information. For example, the member may have taken a decision in reliance on the accuracy of the information, which they would not otherwise have taken. However, they must be able to prove both that they relied on the accuracy of the information provided and that it was reasonable to do so.
50. I have considered carefully whether it was reasonable for Mrs D to have accepted the figures shown on the April 2018 Quotation, as correct. I fully appreciate Mrs D’s points of view on this matter, but I have concluded it was not reasonable, for essentially the same reasons given by the Adjudicator.
51. Mrs D has confirmed that when she asked Aon to check the accuracy of the figures shown on the April 2018 Quotation, she was aware that they were significantly higher than those on the April 2016 Quotation. She has also contended that she brought the discrepancies to Aon’s attention during her telephone conversations.
52. The brief e-mail which Aon sent Mrs D on 31 July 2018 merely confirmed that the figures quoted in the April 2018 Quotation were accurate though. While I am satisfied that Mrs D did therefore ask Aon for confirmation of the accuracy of the figures shown on the April 2018 Quotation, I am wary of concluding from the available evidence that she had pointed out the discrepancies explicitly to Aon. If Mrs D had done so, I consider it reasonable to expect that Aon would have discovered the error shortly after being notified and then explained to her in writing why the figures shown on the two quotations differed so markedly.
53. Mrs D has said that she only asked her IFA for an opinion on the pension figures shown on the April 2018 Quotation and was advised to seek written confirmation that they were indeed accurate. It had therefore been open to Mrs D to seek further assistance from her IFA at the time to deal with this matter. Regrettably, Mrs D chose not to do so. If she had, in my view, her IFA would have explained to her that the

significant differences between the figures on the two quotations clearly could not have been attributable to the pension rights which she had transferred in from her previous pension scheme, AVCs and/or a terminal bonus, as she mistakenly believed.

54. It is unfortunate that Mrs D's attempts to seek a new remunerated position which could mitigate her perceived financial loss have been hindered by her poor health and the ongoing Covid-19 pandemic. Mrs D cannot, however, claim for a loss that she could have mitigated, whether she in fact did so or not. While it is regrettable that Mrs D currently has not yet been able to find an opportunity which would enable her to do so, this does not mean that her circumstances will not change for the better in the future.
55. Although, I do not consider that Mrs D had suffered any actual financial loss, it is clear to me that she has suffered severe distress and inconvenience because of the maladministration identified. I note that during the Adjudicator's investigation Aon offered Mrs D a goodwill award of £1,000 in recognition of this. This is in addition to the £1,000 offered by the Trustee during the IDR. I consider the combined award of £2,000 to be equitable given the circumstances.
56. I partly uphold Mrs D's complaint.

Directions

57. Within 21 days of the date of this Determination, the Trustee and Aon, shall each pay Mrs D £1,000 in recognition of the severe on-financial injustice which she has suffered dealing with this matter.

Anthony Arter

Pensions Ombudsman
13 August 2021