Ombudsman's Determination

Applicant	Mr R
Scheme	GKN Group Pension Scheme No.1 (**the Scheme**)
Respondents	The Trustee of GKN Group Pension Scheme No.1 (**the Trustee**) Mercer

Outcome

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

Complaint summary

2. Mr R complained about a number of issues concerning the Scheme. In particular:-

- Mercer made errors over a period of several years and provided incorrect retirement illustrations consequently he has no way of checking whether his retirement pension is correct. He would like his pension data independently audited to ensure that he is receiving the correct level of pension.
- He was misinformed that his pension would be backdated.
- He was not informed that his Defined Contribution (**DC**) pot would prevent him from taking a pension commencement lump sum (**PCLS**) from the defined benefit section (**the DB Section**) of the Scheme. If he had been correctly informed at the time, he would have stopped paying Additional Voluntary Contributions (**AVCs**) into the Scheme.
- Contributions were missing from schedules that were provided to him.
- He asked to be provided with annual benefit statements but did not receive any.
- The Scheme's complaint procedure was poor, and he had to continually chase Mercer for updates.
- He asked for substantial compensation in recognition of his poor health and the time he had spent dealing with this matter.

Background information, including submissions from the parties

3. In April 2019, Marsh & McLennan Companies purchased Jardine Lloyd Thompson Group plc (**JLT**). This resulted in JLT's UK business being integrated into Mercer. JLT is referred to as Mercer in this Opinion.

4. On 1 January 2009, Mr R joined the Scheme, a defined benefit arrangement with a notional Protected Rights underpin. His Normal Retirement Date (**NRD**) was in June 2017.

5. In April 2014, Mr R started paying AVCs into the Scheme.

6. On 24 May 2016, Mercer sent Mr R a retirement illustration as at his NRD (**the First Illustration**). It said that the benefits were estimated and had been calculated using Mr R's basic salary for service completed after April 2015, and did not include revaluation of the pension he had accrued after 5 April 2016. It included a statement (**the First Statement**) warning that if an error had been made in the calculation the benefits payable would be limited to those due under the Scheme's Trust Deed and Rules (**the Rules**).

7. The retirement benefits quoted in the First Illustration were as follows:-

   - In respect of the DB Section, a full pension of £4,984.15 per annum, or a reduced pension of £4,160.44 per annum plus a PCLS of £13,731.35.

   - The AVCs were valued at £13,281.65, which could be taken as a PCLS or exchanged for additional pension.

8. On 27 May 2016, Mr R queried why he had not received an annual statement in respect of his AVCs.

9. On 1 July 2017, the DB Section closed to future service accrual and Mr R joined the DC Section of the Scheme (**the DC Section**).

10. In November 2017, Mr R telephoned Mercer to request an immediate retirement illustration.

11. On 22 November 2017, Mercer sent Mr R a retirement illustration (**the Second Illustration**). Mercer apologised that the First Illustration had been incorrect. It said that it would arrange for a full quotation pack to be sent to him if he requested it. Mercer explained that it could not provide an illustration for the DC Section, but this was available online.

12. The retirement benefits quoted in the Second Illustration were as follows:-

   - In respect of the DB Section, a full pension of £5,681.08 per annum, or a reduced pension of £5,474.14 per annum plus a PCLS of £3,420.68.

   - The AVCs were valued at £32,889.07, which could be taken as a PCLS or exchanged for additional pension.

13. The Second Illustration said that Mr R's benefits had been estimated and were not guaranteed. It included the First Statement and the following statement (**the Second Statement**):

> "Some of the benefits may be subject to receipt of final data and could vary depending on financial conditions at the time the benefits are payable (for example benefits associated with AVCs and any restrictions necessary to comply with State pension requirements). It should be recognised that the final benefits could be lower than those shown."

14. Mercer confirmed that Mr R could not draw his pension while he was still employed by the Scheme's sponsoring employer (**the Sponsoring Employer**).

15. Mercer has said that on 25 May 2018, Mr R telephoned Mercer and requested details of the contributions he had made to the Scheme. He also asked for an immediate retirement illustration.

16. On 7 June 2018, Mercer sent Mr R a retirement illustration (**the Third Illustration**). Mercer apologised for providing Mr R with incorrect information during the telephone conversation on 25 May 2018. Mr R does not recall what this information was.

17. The retirement benefits quoted in the Third Illustration were as follows:-

- In respect of the DB Section, a full pension of £5,921.12 per annum.
- The AVCs were valued at £30,673.16 and the funds in the DC Section were valued at £33,203.69 making a total of £63,875.85.
- The combined value of the funds in respect of the AVCs and DC Section could provide either:
  - A non-increasing pension of £3,646.36 per annum or a pension of £2,466.67 per annum increasing by 5% per annum, or the Retail Prices Index (**RPI**) if less.
  - A PCLS of £45,574.81 and a non-increasing pension of £1,044.76 per annum or a pension of £706.75 per annum increasing by 5% per annum, or RPI if less.

18. The Third Illustration included the First and Second Statements and the following important note (**the Important Note**):

> "In preparing this pack, care has been taken to reflect the most accurate and up to date information available at the time of preparation. The final benefits payable will always be subject to the Rules, any discretion exercisable by the Trustees, all prevailing legislation, up to date earnings information and, where relevant, any restrictions necessary to comply with State pension requirements (such as the amount of cash sum).

Importantly, if any parts of the benefits are based on financial conditions at the time benefits are actually payable (such as investment market conditions and annuity rates), it should be recognised that the final benefits could be reduced from those shown. If unchangeable financial decisions are to be made based on the illustration, you are reminded that this is an estimate of your benefits only and you should seek clarification as to the extent to which the details contained in the estimated statement could change.”

19. On 11 June 2018, Mercer wrote to Mr R (**the June 2018 Letter**). Mercer confirmed that all his contributions had been taken into account when preparing the figures quoted in the Third Illustration. It provided a breakdown of the contributions, which is summarised in paragraphs 20 to 22 below.

20. In respect of the DB Section, total contributions of £28,217.43 from 1 January 2009 to 30 June 2017.

21. In respect of the AVCs, total contributions of £28,700 consisting of:-

- 24 contributions of £550 per month for the 24-month period from 15 May 2014 to 15 April 2016.

- 11 contributions of £1,000 per month for the 12-month period from 13 May 2016 to 4 April 2017. Two of those contributions were made in May 2016; no contributions were made in either July 2016 or January 2017.

- Three contributions of £1,500 per month for the two-month period from 15 May 2017 to 30 June 2017. Two of those contributions were made in June 2017.

22. The DC Section contributions were split into the following four categories:-

- AVCs via Salary Sacrifice: total contributions amounting to £16,423.00 for the 10-month period from 15 August 2017 to 15 May 2018.

- “Individual AVC Post 97”: contributions totalling £9,537 for the nine-month period from 15 September 2017 to 15 May 2018.

- Member Ordinary Contributions via Salary Sacrifice: contributions totalling £2,846 for the 10-month period from 15 August 2017 to 15 May 2018.

- Employer Regular Contributions: contributions totalling £4,268.93 for the 10-month period from 15 August 2017 to 15 May 2018.

23. On 19 June 2018, Mr R telephoned Mercer to discuss the Third Illustration.

24. On 29 June 2018, Mercer wrote to Mr R to explain the options available to him on his retirement from the Scheme. In respect of the AVCs and the funds in the DC Section, Mercer explained that Mr R could take either a full pension or a reduced pension and a PCLS. It confirmed that he was allowed to take up to 25% of his total benefits as a PCLS. In order to pay Mr R the maximum PCLS, Mercer would first use the value of the AVCs and the funds in the DC Section. As the combined value of these benefits were higher than the maximum PCLS he was permitted to take from the Scheme, he could not exchange any of his DB pension for a PCLS. So, his maximum PCLS would be funded from his AVCs and the funds in the DC Section.

25. On 6 August 2018, Mr R emailed Mercer and enquired about his retirement options.

26. On 22 August 2018, Mercer wrote to Mr R (**the August 2018 Letter**). It apologised for the delay in replying and explained the calculation of the benefits detailed in the Third Illustration, including how it had calculated the maximum PCLS.

27. Mercer explained that the pension in respect of the DB Section had been revalued to 30 June 2017, the date the DB Section closed to further accrual. It also explained the pension was then revalued until Mr R's retirement date using factors provided by the Scheme Actuary.

28. On 30 August 2018, Mr R telephoned Mercer to discuss the information it had provided in the August 2018 Letter.

29. On 6 September 2018, Mercer responded to Mr R in writing, and explained how it had calculated the maximum PCLS.

30. On 19 September 2018, Mr R telephoned Mercer to discuss his benefits in the DC Section. He requested a breakdown of his contributions.

31. On 1 October 2018, the Trustee wrote to Mr R to notify him about an offer to enhance his benefits (**the Enhancement Offer**). Mr R subsequently telephoned Mercer on 5 October 2018, to enquire about the Enhancement Offer.

32. On 9 October 2018, Mercer wrote to Mr R. It highlighted that it had already provided him with a breakdown of his contributions but enclosed it again. Mercer said that his contributions were "invested in markets and subject to change".

33. In respect of the contributions Mr R had made to the DC Section, Mercer included the information it had provided on 11 June 2018. It also included an additional four months' worth of contributions. However, it did not include details of the contributions Mr R had made to the DB Section.

34. On 17 October 2018, Mercer advised Mr R that details about the Enhancement Offer would be sent to him at the end of October 2018.

35. On 26 October 2018, Mercer clarified that Mr R did not have to take his DB and DC benefits at the same time.

36. On 29 October 2018, Mercer sent Mr R a retirement illustration as at 30 June 2019 (**the Fourth Illustration**). The retirement benefits quoted in the Fourth Illustration were as follows:-

- In respect of the DB Section, a full pension of £6,057.85 per annum. No revaluation had been applied to the pension accrued after 31 December 2018.
- The current value of Mr R's AVCs and funds in the DC Section amounting to £75,615.89, of which £45,009.88 was in respect of the DC Section, could provide either:
    - a non-increasing pension of £4,537.95 per annum or a pension of £3,110.10 per annum increasing by 5% per annum, or RPI if less; or
    - a PCLS of £49,193.22 plus a non-increasing pension of £1,585.71 per annum or a pension of £1,086.77 per annum increasing by 5% per annum, or RPI if less.

37. Mercer warned that the figures were estimated and not guaranteed. The First and Second Statements and the Important Note were included with the Fourth Illustration.

38. On 9 November 2018, Mr R telephoned Mercer. He asked for an annual benefit statement and queried the breakdown of contributions provided to him on 11 June 2018.

39. On 23 November 2018, Mercer wrote to Mr R and said that it had received all of the contributions he had made to the Scheme. While no contributions were allocated in July 2016, two contributions had been allocated in May 2016. It confirmed that contributions could take 30-60 days to be updated on its system, so there could be a discrepancy with the date the contributions were shown on Mercer's system. It enclosed a copy of the breakdown of the AVCs it had provided on 11 June 2018.

40. On 12 December 2018, Mr R telephoned Mercer and requested a retirement illustration in respect of his AVCs and funds in the DC Section as he could not access them online.

41. On 14 December 2018, Mr R emailed Mercer as he was concerned that Mercer was missing a £1,000 contribution in respect of his AVCs for January 2017.

42. On 17 December 2018, Mr R telephoned Mercer to enquire about taking a PCLS from the DB Section and whether he could transfer other pension benefits to the Scheme.

43. On 21 December 2018, Mr R telephoned Mercer and asked for information concerning his AVCs. He then followed up the enquiry later the same day.

44. On 24 December 2018, Mercer sent Mr R a copy of the Fourth Illustration. It subsequently sent a separate letter on 2 January 2019, confirming that Mr R could transfer his pension from other arrangements into the Scheme and explained how he could do this.

45. On 3 January 2019, Mr R telephoned Mercer twice to query why he was not allowed to exchange part of his pension in the DB Section for a PCLS. He said he could not access his benefits online and repeated that he was missing a £1,000 contribution in respect of his AVCs.

46. On the same day, Mercer wrote to Mr R. It confirmed that it had received the missing £1,000 contribution on 13 January 2017, and it had been invested. However, due to an error, it had not been included in the breakdown of the contributions. Mercer apologised and confirmed that it had recalculated the value of his AVCs.

47. Mercer enclosed a revised breakdown of Mr R's contributions (**the Revised Breakdown of Contributions**). This showed total contributions of £29,700, which was £1,000 higher than it had previously advised.

48. A comparison between the pension deductions made from Mr R's salary during 2017 and the contributions detailed in the Revised Breakdown of Contributions is set out in the Appendix.

49. On 7 January 2019, Mr R telephoned Mercer and asked if he could receive separate DB and DC Section illustrations, and on the same day, Mercer confirmed that it could not. Mercer also included a retirement illustration as at 4 January 2019 (**the Fifth Illustration**). The retirement benefits quoted in the Fifth Illustration were as follows:-

- In respect of the DB Section, a full pension of £6,057.85 per annum.
- The value of Mr R's AVCs and funds in the DC Section amounting to £113,027.51, of which £55,034.05 was in respect of the DC Section, could provide either:
    - a non-increasing pension of £6,740.67 per annum or a pension of £4,500.76 increasing by 5% per annum, or RPI if less; or
    - a PCLS of £58,546.13 and a non-increasing pension of £3,249.13 per annum or a pension of £2,169.45 per annum increasing by 5% per annum or RPI if less.

50. The figures in the Fifth Illustration were estimated and not guaranteed. The First and Second Statements and the Important Note were included.

51. On 11 January 2019, Mercer wrote to Mr R and explained the options available to him on his retirement. It confirmed that it had calculated his maximum PCLS as 25% of his total pension, but it had commuted all of his AVCs and funds in the DC Section first, thereby maximising the amount of annual pension payable to him from the DB Section.

52. On 17 January 2019, Mercer wrote to Mr R and enclosed a copy of the Revised Breakdown of Contributions it had provided on 9 October 2018, updated to include an additional three months' worth of contributions (**the Updated Breakdown of Contributions**). It said that an annual benefit statement would be issued in due course.

53. On 21 January 2019, Mr R telephoned Mercer to better understand why he was not allowed to exchange part of his pension in the DB Section for a PCLS.

54. On 28 January 2019, Mercer wrote to Mr R (**the 28 January 2019 Letter**). Mercer restated the options available to him on his retirement from the Scheme. It said that he did not have to take his DB and DC benefits at the same time.

55. On 4 February 2019, Mr R wrote to Mercer and asked for an annual benefit statement. He queried why his July 2017 contribution for the DC Section had not been included in any of the breakdown of contributions Mercer had provided.

56. On 4 February 2019, Mercer resent the 28 January 2019 Letter to Mr R.

57. On 19 March 2019, Mr R telephoned Mercer to ask again why he was not allowed to exchange part of his pension in the DB Section for a PCLS.

58. On 15 April 2019, Mr R telephoned Mercer and asked for a retirement illustration.

59. On 17 April 2019, Mercer wrote to Mr R and explained the position about his PCLS. Mercer included a retirement illustration as at 17 April 2019 (**the Sixth Illustration**). The retirement benefits quoted in the Sixth Illustration were as follows:-

- In respect of the DB Section, a full pension of £6,049.02 per annum.
- The value of Mr R's AVCs and funds in the DC Section amounting to £101,585.98, of which £70,565.18 was in respect of the DC Section, could provide either:
    - a non-increasing pension of £5,698.43 per annum or a pension of £3,785.86 per annum increasing by 5% per annum, or RPI if less; or
    - a PCLS of £55,641.60 and a non-increasing pension of £2,577.24 per annum or a pension of £1,712.23 per annum increasing by 5% per annum, or RPI if less.

60. Mercer included the Important Note with the Sixth Illustration and highlighted that the benefits in respect of the AVCs and DC Section may need to be recalculated if there was a change in interest rates.

61. On 30 April 2019, Mr R telephoned Mercer and asked for clarification about how the PCLS was calculated.

62. On 7 May 2019, Mercer wrote to Mr R and explained how the PCLS was calculated.

63. On 9 May 2019, Mr R telephoned Mercer and requested a further retirement illustration. He subsequently contacted Mercer on 23 May 2019, and questioned why he could not exchange his pension in the DB Section for a PCLS.

64. On 23 May 2019, Mercer wrote to Mr R. It confirmed that his contributions to the DC Section had increased his maximum PCLS. If Mr R had not made any payments to the DC Section, his maximum PCLS would have been £27,282.00. Enclosed with the letter was a retirement illustration as at 31 May 2019 (**the Seventh Illustration**). The retirement benefits quoted in the Seventh Illustration were as follows:-

- In respect of the DB Section, a pension of £6,062.23 per annum.
- The total value of the AVCs and the funds in the DC Section was £129,211.74, which could provide either:
    - a non-increasing pension of £7,464.15 per annum or a pension of £4,935.30 per annum; or
    - a PCLS of £62,739.14 and a non-increasing pension of £3,853.88 per annum or a pension of £2,548.14 per annum, increasing by 5% per annum, or RPI if less.

65. Mercer included the First and Second Statements and the Important Note and highlighted that the benefits in respect of the AVCs and DC Section may need to be recalculated if there was a change in interest rates.

66. On 31 May 2019, Mr R's employment with the Sponsoring Employer ended.

67. On 3 June 2019, Mercer wrote to Mr R and explained his retirement options. Mr R contacted Mercer and again questioned why he could not exchange his pension in the DB Section for a PCLS.

68. On 11 June 2019, Mercer sent retirement claim forms to Mr R. On the same day, Mr R telephoned Mercer and requested separate DB and DC retirement illustrations.

69. On 17 June 2019, Mercer received Mr R's completed retirement claim forms.

70. On 26 June 2019, Mercer wrote to Mr R (**the June 2019 Letter**). It said that the Seventh Illustration was incorrect as it had overstated the total value in respect of the AVCs and the funds in the DC Section. Consequently, the PCLS and the pension it had quoted in respect of those benefits had been overstated. Mercer explained that the total value of the AVCs and funds in the DC Section amounted to £110,662.73 and apologised for the error.

71. Mercer confirmed that the pension in respect of the DB Section was correct. It enclosed a retirement illustration for the DB Section and a separate retirement illustration for the DC Section as at 31 May 2019 (**the Eighth Illustration**).

72. The options Mercer quoted in respect of the DB Section were identical to those in the Seventh Illustration, except that Mr R was also given the option to take a PCLS of £27,281.22 with a reduced pension of £4,339.60 per annum.

73. Mercer advised that the combined value of the AVCs and the funds in the DC Section could provide:

- a non-increasing pension of £6,166.09 per annum or a pension of £4,104.09 per annum increasing by 5% per annum or RPI if less; or
- a maximum PCLS of £57,976.83 in respect of the DB Section and his funds in the DC Section and a non-increasing pension of £2,935.64 per annum or a pension of £1,953.93 per annum increasing by 5% per annum or RPI if less; or
- a PCLS of £27,665.68 in respect of only his funds in the DC Section, and a non-increasing pension of £4,624.56 per annum or a pension of £3,078.07 per annum increasing by 5% per annum or RPI if less.

74. The Eighth Illustration included the Important Note.

75. On 4 July 2019, in response to a request from Mr R for a breakdown of his contributions into the Scheme, Mercer provided a copy of the Updated Breakdown of Contributions (**the July 2019 Letter**). It had been revised to include the following information:-

- An additional six months' worth of contributions to the DC Section.
- A contribution to the DC Section of £302.66 which was allocated on 13 January 2017 with the next contribution of £280.18 being allocated on 15 September 2017. However, in the Updated Breakdown of Contributions, the payment for £302.66 was allocated to 15 August 2017.
- AVCs of £29,700 in respect of the DB Section up to June 2017.
- Normal contributions of £28,217.43 in respect of the DB Section up to June 2017.
- Contributions of £9,490.29 made by the Sponsoring Employer into the DC Section.

76. Mercer confirmed that the Eighth Illustration provided the option to take the DB and the DC benefits separately.

77. On 4 July 2019, Mr R complained to Mercer and raised the following points:-

- He had relied on the Seventh Illustration in good faith.
- Mercer should explain how the errors had occurred and why there was a shortfall in the value of his AVCs and the funds in the DC Section compared with the value Mercer had quoted in the Seventh Illustration. His pension had suffered a loss and there had been a delay in him receiving it.
- He would like an award for the distress the errors had caused him and for the time he had spent dealing with these issues.

78. On 5 July 2019, Mercer acknowledged Mr R's complaint.

79. On 11 July 2019, Mercer responded to Mr R's complaint and apologised on behalf of Mercer and the Trustee. The response is summarised below:-

- It confirmed that all of the figures quoted in the retirement Illustrations in respect of the DB benefits were correct. However, Mercer had used incorrect values for the AVCs in the Fifth and Seventh Illustrations. On both occasions, the value of the notional Protected Rights underpin had been added to the value of the AVCs by mistake.

- The Trustee could only pay the benefits that he was entitled to under the Rules. The Eighth Illustration correctly reflected his entitlement, and the Trustee could not pay him benefits that exceeded this.

80. On 1 August 2019, Mr R contacted the Scheme as he was dissatisfied with Mercer's response to his complaint.

81. On 27 August 2019, Mercer responded with the following points:-

- The DB benefits had a notional Protected Rights underpin.

- When the DB benefits were calculated, the notional funds in respect of the Protected Rights underpin were converted to a pension and compared with the DB pension. As the benefits in the DB Section were relatively generous, the DB pension was higher than the pension that could be secured using the notional funds. This proved to be the case in all of the retirement Illustrations that Mercer had issued to Mr R.

- The value of the notional Protected Rights underpin was added to the value of the AVCs by mistake in the Fifth and Seventh Illustrations.

82. On 30 September 2019, Mercer wrote to Mr R and requested that he return the retirement claim forms if he wanted to receive his benefits.

83. On 1 October 2019, Mr R telephoned Mercer for an update on his complaint. He was told that his complaint had been passed to the Trustee's legal advisers. He also asked for an update regarding his annual benefit statement, and he was told that Mercer would follow up the enquiry.

84. On 10 October 2019, Mercer responded to Mr R's complaint. It did not provide any new information but offered Mr R an award of £500 (**the Offer**), for distress and inconvenience.

85. On 25 October 2019, Mr R complained under the Scheme's Internal Dispute Resolution Procedure (**IDRP**). He made the following points:-

- He was not satisfied with how his complaint had been handled by Mercer. There had been a catalogue of errors and omissions over a period of several years and he had no way of checking if any of the retirement Illustrations were correct. He was shocked and distressed when he received the June 2019 Letter informing him that his pension was incorrect.

- As he had lost confidence in Mercer, he wanted all of his pension data to be independently audited. There were potentially more errors that he had missed.

- When he telephoned Mercer, it could not help with his enquiries; the retirement process had been time consuming and frustrating. He had attended five appointments with Pension Wise and Age UK to try to sort out his pension.

- The breakdown of contributions Mercer had provided did not match contributions on his payslips. Contributions to the DC Section for January and December 2017, were not included in the information provided in the June 2018 Letter, and Mercer had not included an AVC payment of £1,000 for January 2017. If the Sponsoring Employer had not pointed this out, it would have been overlooked. There were also seven months' worth of contributions missing in the July 2019 Letter.

- He questioned why it had taken 30 - 60 days for his contributions in respect of the DC Section to be invested.

- He had made repeated requests for annual benefit statements.

- He should have been informed at the time that he would not have the option to take a PCLS from the DB Section, so that he could stop paying AVCs.

- He had decided not to put his pension into payment because he did not know which retirement Illustration was correct.

- His general state of health was poor, and he had trouble sleeping. He expected a substantial award for the errors in recognition of his health issues and the time he had spent sorting out his pension.

86. On 29 October 2019, Mercer sent Mr R a retirement illustration (**the Ninth Illustration**) as at 30 June 2019. The retirement benefits quoted in the Ninth Illustration were as follows:-

- In respect of the DB Section, a full pension of £6,057.85 per annum.

- The combined value of the AVCs and the funds in the DC Section amounting to £75,615.89, of which £45,009.88 was in respect of the DC Section, could provide either:

  - a non-increasing pension of £4,537.95 per annum or a pension of £3,110.10 per annum increasing by 5% per annum or RPI if less; or
  - a PCLS of £49,193.22 and a non-increasing pension of £1,585.71 per annum or a pension of £1,086.77 per annum increasing by 5% per annum or RPI if less.

87. Mercer included the First and Second Statements and the Important Note with the Ninth Illustration. It said that members had the option to draw their DB benefits and take their DC benefits at a later date and vice versa.

88. On 26 November 2019, Mercer notified Mr R that the funds in the DC Section would be moved to Legal & General (**L&G**). However, benefits from both the DB and the DC Sections would be paid from the Scheme.

89. On 25 February 2020, the Trustee responded to Mr R's complaint under the IDRP and apologised for the delay in responding. It made the following points:-

    - It agreed that Mercer had made errors in the calculation of the figures in two retirement Illustrations and could have communicated with Mr R more clearly. However, the Trustee could only pay the benefits due under the Rules and there was no evidence that he had suffered a financial loss.
    - Mercer had provided eight retirement Illustrations, two of which had overstated the benefits in respect of the AVCs.
    - The benefits quoted in the Eighth Illustration had been checked by the Scheme Actuary and verified as Mr R's correct benefits.
    - A breakdown of contributions was sent to him on 4 July 2019.
    - An annual benefit statement was posted to Mr R in October 2017, which was the most recent statement. It enclosed a copy.
    - The Trustee could not increase the Offer in the circumstances.

90. On 18 March 2020, Mercer wrote to Mr R and confirmed that his pension had been calculated as at 31 May 2019, the date he stopped working for the Sponsoring Employer. It said that the arrears, when put into payment, would be paid to him as a lump sum. Mercer asked Mr R to return the retirement claim forms enclosed in the Eighth Illustration if he wanted to receive his benefits.

91. On 20 March 2020, Mr R telephoned Mercer to discuss its letter. During the call, Mercer said that his pension from 31 May 2019 would be back dated as a lump sum. Mr R also queried whether the value of the AVCs and funds in the DC Section were up to date. Mercer said it would check and confirm to him within 10 working days.

92. On 31 March 2020, Mercer notified Mr R that the Trustee had recently decided members did not have the option to take their benefits from the DB and DC Section separately. Consequently, Mr R had to take benefits from both Sections at the same time. It apologised for the delay in informing him.

93. On 1 April 2020, Mercer confirmed that the current value of Mr R's AVCs and funds in the DC Section amounted to £115,169.10. It enclosed a combined DB and DC retirement illustration as at 1 April 2020 (**the Tenth Illustration**). The retirement benefits quoted in the Tenth Illustration were as follows:-

- In respect of the DB Section, a full pension of £6,057.94 per annum.
- The combined value of the AVCs and the funds in the DC Section amounting to £115,169.10 could provide either:
    - a non-increasing pension of £6,627.24 per annum or a pension of £4,381.94 per annum increasing by 5% per annum or RPI if less; or
    - a PCLS of £59,081.98 and a non-increasing pension of £3,227.45 per annum or a pension of £2,133.99 per annum increasing by 5% per annum or RPI if less.

94. Mercer included the First and Second Statements and the Important Note with the Tenth Illustration.

95. On 4 May 2020, Mercer wrote to Mr R as it had not received his retirement claim forms.

96. On 7 May 2020, Mr R telephoned Mercer to say that he would not return the 31 May 2019 retirement claim forms until the outcome of the investigation by The Pensions Ombudsman (**TPO**). He asked Mercer not to commence his pension until further notice.

97. On 10 February 2021, after receiving a retirement illustration request from Mr R, Mercer sent him an illustration as at 31 May 2021, which set out his benefits in a different format to the previous Illustrations (**the Eleventh Illustration**). The retirement benefits quoted in the Eleventh Illustration were as follows:-

- In respect of the DB Section, a full pension of £6,257.53 per annum.
- The combined value of the AVCs and the funds in the DC Section amounting to £115,457.28 could provide either:
    - a non-increasing pension of £6,276.07 per annum or a pension of £4,367.69 per annum increasing by 5% per annum or RPI if less; or
    - a PCLS of £60,151.97 and a non-increasing pension of £3,006.31 per annum or a pension of £2,092.71 per annum increasing by 5% per annum or RPI if less.

98. Mercer included the Important Note and warned that the benefits were estimated and could be higher or lower if any of the information changed. It also warned that the value of the AVCs and the funds in the DC Section were not guaranteed.

99. In February 2021, Mr R queried the format of the Eleventh Illustration. On 2 March 2021, Mercer explained that the Trustee had agreed the new format, and it could no longer provide illustrations in the old format. Mercer said that it had asked the Trustee to consider Mr R's request for the Offer to be increased.

100. On 10 March 2021, Mr R telephoned Mercer to ask for details of the late retirement factors applied to the Eleventh Illustration. He also asked again for the Offer to be increased.

101. On 19 March 2021 Mr R telephoned Mercer to ask for assistance in completing the retirement claim forms.

102. On 22 March 2021, Mr R telephoned Mercer for an update on the possibility of increasing the Offer. On 1 April 2021, Mercer wrote to Mr R and said that the Offer would not be increased.

103. On 14 April 2021, Mr R signed the retirement claim forms which had been included with Eleventh Illustration. It stated that Mr R's retirement date was 31 May 2021. On the same day, Mr R telephoned Mercer to ask how much of his Lifetime Allowance (**LTA**) would be used up by his pension from the Scheme.

104. On 19 April 2021, Mercer received Mr R's signed retirement claim forms.

105. On 27 April 2021, Mercer replied to Mr R's LTA query.

106. On 31 May 2021, Mr R retired from the Scheme. On the same day, he received a PCLS of £62,235.31 and a total pension of £10,057.08 per annum. The annual pension in respect of the DB Section was adjusted to reflect the fact that it came into payment after his NRD, so Mr R did not receive a lump sum for back payments from the date he stopped working for the Sponsoring Employer.

107. Mr R's additional comments are summarised below:-

- The Trustee has only acknowledged the errors in the Illustrations, but Mercer made a number of mistakes over a period of several years. The Trustee has not made any attempt to investigate those mistakes and was dismissive of his complaint. It took 123 days for the Trustee to reply to his complaint.

- There are seven DC payments missing from February to August 2017. There are missing AVCs in respect of January and December 2017. In some instances, two AVCs were allocated in the same month.

- He delayed taking his pension because Mercer told him that once it had come into payment, it could not be changed. He wanted to know the outcome of his complaint to TPO before proceeding with his retirement.

- When he started receiving his pension, he expected to receive two years' worth of arrears. However, it was not backdated.

- He did receive the annual benefit statement that was posted to him in October 2017, and he was not able to access the online portal for the AVCs or DC Section.

- The Scheme's complaint procedure is very poor. It was necessary for him to continually chase Mercer for updates.

- This matter has caused him considerable distress and anxiety during a period when he had been seriously ill and had required several operations.

- He does not accept the Offer. He has spent a lot of time dealing with his complaint and Age UK said he should be compensated accordingly. Pension Wise told him that he should be awarded £500 for each error.

108. Mercer's additional comments are summarised below:-

- It did not receive signed retirement claim forms for the Eighth Illustration, which had illustrated benefits as at 31 May 2019.

- Between 7 May 2020, when Mr R initially said that he would not return the 31 May 2019 retirement claim forms, and 27 May 2021, when it settled Mr R's pension, he did not ask for a retirement date backdated to 31 May 2019. So, it settled Mr R's pension with a retirement date of 31 May 2021.

Adjudicator's Opinion

109. Mr R's complaint was considered by one of our Adjudicators who concluded that no further action was required by the Trustee or Mercer.

110. The Adjudicator's findings are summarised in paragraphs 111 to 126.

111. The Trustee and Mercer acknowledged that the First, Fifth and Seventh Illustrations were incorrect. Mr R was also given incorrect information by Mercer during a telephone call, and there were errors in the breakdown of contributions, which the Adjudicator considered further in paragraphs 119 to 122. These errors amounted to maladministration.

112. All of the Illustrations sent to Mr R included warning statements. The First Statement said if there was an error, benefits would be limited to those due under the Rules, and the Important Note stated the final benefits payable would always be subject to the Rules. So, while it would be reasonable for Mr R to have used the information in the Illustrations for general planning purposes, it would not be reasonable for him to use it in making life changing decisions, such as giving up work. Mr R would not have done anything materially different if the Illustrations had been correct. So, Mr R did not suffer any financial loss as a result of the incorrect Illustrations.

113. The Pensions Ombudsman (**the PO**) would likely conclude that the Trustee took an appropriate course of action by having the figures in the Eighth Illustration reviewed. In any event, the Trustee was under no obligation to have the figures independently audited.

114. Mr R said that he was misinformed that his pension would be backdated. On 18 March 2020, Mercer wrote to Mr R and said that his pension in the Eighth Illustration had been calculated as at 31 May 2019, and arrears would be paid to him as a lump sum when he returned the retirement claim forms. This was also confirmed in a telephone call on 20 March 2020.

115. However, Mr R never returned the retirement claim forms from the Eighth Illustration, and he told Mercer not to start paying his pension until further notice. This was because he wanted to receive the outcome of TPO's investigation before putting his pension into payment. Then, in April 2021, Mr R signed the retirement claim forms from the Eleventh Illustration. The retirement claim forms stated that Mr R's retirement date was 31 May 2021. So, his pension in the Eleventh Illustration was calculated as at 31 May 2021, and included late retirement factors to account for the fact that his NRD was 30 June 2017. Indeed, on 10 March 2021, Mr R telephoned Mercer to enquire further about the late retirement factors.

116. The Adjudicator appreciated that, given the information Mr R received from Mercer in March 2020, he may not have fully realised that when he signed the retirement claim forms from the Eighth Illustration, instead of receiving two years of back pension in a lump sum, he was accepting a higher pension adjusted by the late retirement factors. However, the pension he received reflected the fact that he retired almost four years after his NRD, and by putting his pension into payment on 31 May 2021, Mercer had followed Mr R's instructions in the retirement claim forms.

117. Mr R had misunderstood the position concerning the calculation of the PCLS. PTM063220 of HM Revenue & Customs (**HMRC**) Pension Tax Manual explained that the PCLS and pension could be paid from different arrangements under the same scheme. PTM063320 also explained that HMRC rules allowed the PCLS to be linked to an arising pension entitlement under one or more different arrangements the member may have held in the same registered pension scheme. This allowed the maximum PCLS to be calculated based on all of the member's entitlements under that scheme. For example, the member was able to draw the PCLS from their DC benefits rather than potentially drawing two or more smaller PCLS from different sections of the same scheme; the defined benefit arrangement could then provide the member with a higher pension and no PCLS.

118. As the combined value of the AVCs and the funds in the DC Section was higher than the maximum PCLS available on Mr R's retirement from the Scheme, the PCLS of £62,235.31 was funded using his AVCs and the funds in the DC Section.

119. The Adjudicator did not find any evidence to suggest that a £1,000 AVC payment for December 2017 was missing from Mercer's breakdown of contributions. The DB Section closed to future service accrual on 1 July 2017, so Mr R's last AVC payment was made in June 2017. However, Mercer did accept that it had missed a £1,000 AVC payment for January 2017, but it subsequently confirmed that the payment had been received and invested and the omission in the breakdown of contributions was corrected.

120. In the June 2018 Letter, there were two AVC payments allocated in May 2016 but none in July 2016. However, as the correct total number of AVC payments was invested during the period May 2014 to June 2017, one of the May 2016 payments was in respect of July 2016.

121. In the July 2019 Letter, there was a seven-month gap in contributions to the DC Section between 13 January 2017, when a contribution of £302.66 was allocated, and 15 September 2017, when there was a contribution of £280.18. However, the DC Section did not start until 1 July 2017, and the first deduction from Mr R's salary was in July 2017 for £302.66. Also, in the Updated Breakdown of Contributions, the payment date for the £302.66 contribution had changed to 15 August 2017. So, the payment allocated to 13 January 2017 in the July 2019 Letter had been incorrectly allocated and should have been in respect of Mr R's August 2017 payment.

122. The Adjudicator checked Mr R's monthly payslips for all the contributions that were deducted from his salary during the 2017 calendar year. After taking account of the fact that his AVC payments of £1,500 in May 2017 and £1,500 in June 2017 were combined to be allocated as a single amount of £3,000 in May 2017, the Adjudicator was satisfied that all the deductions made in respect of the AVCs and the DC Section during 2017 corresponded with Mercer's corrected breakdown of the contributions, as set out in the Appendix.

123. Mr R asked Mercer for an annual benefit statement on three separate occasions. Mr R subsequently acknowledged that he did receive the annual benefit statement issued to him in October 2017. Benefit statements were also available to him online, although the Adjudicator appreciated that Mr R had not been able to access them due to IT issues.

124. Regarding Mercer and the Trustee's handling of Mr R's complaint, Mr R first complained to Mercer on 4 July 2019, and it responded on 11 July 2019. He complained again on 1 August 2019, and Mercer responded on 27 August 2019. When Mr R was dissatisfied with Mercer's second response he contacted Mercer again on 1 October 2019, and received a response on 10 October 2019. After Mr R submitted his complaint under the Scheme's IDRP on 25 October 2019, he received a response from the Trustee on 25 February 2020.

125. Code 11 Dispute resolution – reasonable periods stated that The Pensions Regulator (**the Regulator**) expected a dispute decision to be made within four months of receiving an application, and the applicant to be notified of the decision no later than 15 working days later. So, all of the responses issued to Mr R were within the Regulator's expected timeframe.

126. Mercer and the Trustee recognised the issues Mr R encountered during his retirement process had caused him distress and inconvenience, so offered him a £500 award. The Adjudicator appreciated that Mr R had received incorrect information from Mercer on several occasions, and that he had spent a lot of time dealing with his complaints during a period when he was unwell. However, an award of £500 was in line with the PO's guidance for significant non-financial injustice. In order to award a higher amount, there would need to be evidence that showed Mr R had been materially affected by the maladministration over a prolonged period and that Mercer was slow in putting matters right. This was not the case, so a higher award was not warranted in the circumstances.

127. Mr R did not accept the Adjudicator's opinion and the complaint was passed to me to consider. Mr R provided his further comments, which are summarised below:-

- He was mainly concerned about the error in the Seventh Illustration.
- He had lost all confidence in the Trustee and Mercer, and he did not know if the pension he was receiving was correct. He believed that it was reasonable for him to ask for it to be independently checked, but he never received a response on this from the Trustee.
- Mercer had confirmed to him during a telephone call in mid-2019 that his pension would be back dated.

128. Mr R's comments do not change the outcome. I agree with the Adjudicator's Opinion

Ombudsman's decision

129. Mr R complained about a number of issues, mainly relating to Mercer providing him with incorrect information over several years. However, his primary complaint concerns the incorrect Seventh Illustration provided to him on 23 May 2019. He initially planned to put his pension into payment when he stopped working for the Sponsoring Employer on 31 May 2019. But, on 26 June 2019, soon after he had posted his retirement claim forms back to Mercer, he was told that the value of his AVCs and funds in the DC Section had been incorrectly overstated by almost £19,000. So, rather than the value of his funds being £129,211.74, they were actually valued at £110,662.73.

130. While I sympathise with Mr R's position, I note that the previous illustration he received, the Sixth Illustration, dated 17 April 2019, which was correct, informed him that the value of his funds was £101,585.98. So, it might be reasonable to expect Mr R to have realised that something was not quite right when he was being told that his funds had increased in value from £101,585.98 to £129,211.74 over a relatively short period of time. Nonetheless, I agree with the Adjudicator. While the incorrect Illustrations, together with Mercer's other errors amount to maladministration, no financial loss flowed from the errors.

131. However, I understand the distress and inconvenience that Mr R might have suffered while dealing with Mercer. So, I find that Mercer's maladministration did cause Mr R to suffer non-financial injustice, but I find the £500 payment already offered by Mercer was appropriate in the circumstances.

132. I appreciate that the numerous errors have resulted in Mr R not being confident that the pension he is now receiving is correct. However, as the Eighth Illustration was checked by the Scheme Actuary, I find that the Trustee took an appropriate course of action by conducting the check, and there is nothing to suggest that Mr R is not receiving his correct pension.

133. In respect of Mr R's pension not being backdated, Mercer put Mr R's pension into payment without any backdating because he signed the retirement claim forms from the Eleventh Illustration, which stated a retirement date of 31 May 2021. Mr R did not instruct Mercer to start his pension from an earlier date, so the fact that he retired later was reflected in him receiving a higher pension rather than a lower pension and a back payment.

134. In Mr R's case, for the reasons explained above, while there was maladministration, this did not lead to financial loss. It did lead to non-financial injustice, but I find the offer made by Mercer is appropriate in the circumstances.

135. I do not uphold Mr R's complaint.

Dominic Harris

Pensions Ombudsman
4 March 2024

Appendix

A comparison of the pension deductions detailed on Mr R's payslips against Mercer's corrected breakdown of the contributions it invested during the 2017 calendar year.

Pension deductions in payslips	pensave AVC	pensave DC	pensave AVC	AVC	Total
Jan-17	£1,000.00				
Feb-17	£1,000.00				
Mar-17	£1,000.00				
Apr-17	£1,500.00				
May-17	£1,500.00				
Jun-17	£1,500.00				
Jul-17		£302.66	£1,651.33		
Aug-17		£280.18	£1,640.09	£1,050.64	
Sep-17		£280.18	£1,640.09	£1,050.64	
Oct-17		£302.66	£1,651.33	£1,134.97	
Nov-17		£280.18	£1,640.09	£1,050.64	
Dec-17		£280.18	£1,640.09	£1,050.64	
Totals	£7,500.00	£1,726.04	£9,863.02	£5,337.53	£24,426.59

Mercer's contribution schedules	pensave AVC	pensave DC	pensave AVC	AVC	Total
Jan-17	£1,000.00				
Feb-17	£1,000.00				
Mar-17	£1,000.00				
Apr-17	£1,500.00				
May-17	£3,000.00				
Jun-17					
Jul-17		£302.66	£1,651.33		
Aug-17		£280.18	£1,640.09	£1,050.64	
Sep-17		£280.18	£1,640.09	£1,050.64	
Oct-17		£302.66	£1,651.33	£1,134.97	
Nov-17		£280.18	£1,640.09	£1,050.64	
Dec-17		£280.18	£1,640.09	£1,050.64	
Totals	£7,500.00	£1,726.04	£9,863.02	£5,337.53	£24,426.59