

Ombudsman's Determination

Applicant	Mr T
Scheme	BP Pension Fund (the Scheme)
Respondents	BP Pension Trustees Limited (the Trustee) BP UK Pensions & Benefits (the Administrator)

Outcome

1. Mr T's complaint against the Trustee and the Administrator is partly upheld. To put matters right, the Trustee shall pay £1,000 to Mr T.

Complaint summary

2. Mr T complained that the Scheme recorded incorrect information about his lifetime allowance (**LTA**) position, and this delayed his request for a guaranteed cash equivalent transfer value (**CETV**).
3. Mr T said his final CETV was lower than it would have been if the record of his LTA had been correct. He said it also caused a delay in the administration of his transfer, which led to an investment loss.

Background information, including submissions from the parties

4. The sequence of events is not in dispute, so I have only set out the salient points. I acknowledge there were other exchanges of information between all the parties.
5. On 19 May 2017, Mr T emailed the Administrator a copy of the certificates for his Fixed Protection 2014, Enhanced LTA (International) Protection, and his Individual Protection 2014, which he said was dormant. The enhancement factors for Mr T's Enhanced LTA were 11.41 and 0.02 respectively.
6. On 1 June 2017, the Administrator emailed Mr T. It confirmed that the certificates were on his record.
7. On 21 December 2017, Mr T accessed his online account for the Scheme (**PensionLine**) and obtained a CETV illustration. The value of his benefits was quoted as £2,384,319, which was not guaranteed (**the December 2017 Value**).

8. On the same day, Mr T emailed the Administrator to highlight that the retirement calculator on PensionLine was not showing his correct LTA position. He said he had previously supplied his Enhanced LTA certificate but included it again for reference. He asked to be informed when the issue had been corrected.
9. On 22 December 2017, the Administrator emailed Mr T. It said that it would review the matter and its response could take up to 10 to 12 working days.
10. On 5 January 2018, the Administrator added the LTA enhancement factor of 0.02 to Mr T's PensionLine account.
11. On 12 January 2018, Mr T emailed the Administrator to request an update on the issue he had raised.
12. On the same day, the Administrator responded to query the information on Mr T's Enhanced LTA certificate, as it suggested that he had an unusually high LTA. The Administrator asked Mr T to contact HMRC.
13. On 26 January 2018, following a telephone call with the Administrator, Mr T sent an email to the Administrator. He explained that he had obtained a CETV illustration on 21 December 2017, but when he checked again on 25 January 2018, there had been a significant drop in the quoted value. He said that his intention was to request a guaranteed CETV in December 2017, but he had noticed an error in his LTA information, which he believed could affect the calculation of the CETV. He therefore decided to wait until the details on PensionLine had been corrected before requesting a guaranteed CETV. He said he had since been advised that the LTA would not affect the CETV.
14. Mr T said that during his telephone call with the Administrator, he was informed that from 1 January 2018 the Scheme had applied new mortality factors to the calculation of transfer values. Mr T asked the Administrator if it would consider honouring the December 2017 Value.
15. On 5 February 2018, Mr T emailed the Administrator to provide a summary of his concerns and ask for its response.
16. On 23 February 2018, the Administrator responded to Mr T. It said it had previously advised him that his Enhanced LTA was updated on his PensionLine account. It noted that he had emailed on 21 December 2017, to highlight his issue with the PensionLine retirement calculator, but he did not mention his wish to request a CETV at that time. It confirmed that under legislation it was required to issue a CETV within 10 working days of the calculation date, so it would no longer be possible to honour the December 2017 Value. It had carried out a calculation based on the February 2018 factors (**the February 2018 Value**), and this had produced a higher value than in January 2018.

17. On 16 March 2018, Mr T emailed the Administrator to register a complaint under the Scheme's Internal Dispute Resolution Procedure (**IDRP**). He also confirmed his intention to proceed with the transfer of his benefits out of the Scheme, on the basis of the February 2018 Value. He understood that if his complaint was upheld, he would receive redress for the difference between this amount and the December 2017 Value.
18. On the same day, the Administrator responded to Mr T to acknowledge receipt of the complaint and advise that the Trustee would respond to him directly.
19. On 15 April 2018, Mr T emailed the Administrator. He said he was informed that the Trustee would be discussing the complaint on 26 April 2018, and it may be a further two weeks before he would receive a written response. He said he wanted to wait for this response before taking a decision about his transfer but noted that the February 2018 Value was due to expire on 12 May 2018. He was concerned that he would not have sufficient time to consider his decision before the guarantee period ended. He asked the Administrator if it would be possible to extend the date.
20. On 19 April 2018, Mr T emailed the Administrator to request a response to his email of 15 April 2018. He said that he discussed the matter with the Administrator by telephone on 15 April 2018 and was assured that a response would be provided the following day. He explained that his financial advisor had recommended he proceed with the transfer, but this was a more marginal decision if he was only to receive the lower February 2018 Value. This was why he wanted to wait for the Trustee's response to the complaint.
21. On the same day, the Administrator replied to confirm that the Trustee was still due to discuss Mr T's case on 26 April 2018. It said that in order to honour the February 2018 Value, a discharge form would need to be submitted by 12 May 2018. However, in view of Mr T's circumstances, it said it did not require any additional paperwork by that time. It highlighted that the transfer had to be completed within six months of the calculation date, so it would need to be finalised by 12 August 2018 to obtain the quoted transfer value.
22. On 20 April 2018, Mr T emailed the Administrator to explain that he had already prepared the transfer paperwork. He considered that it was just the discharge form which represented his definitive decision to transfer, so only this form should be withheld until the Trustee made its decision. He said he had decided to submit all the documentation, including the discharge form, on the understanding that the Administrator would contact him regarding the Trustee's decision and allow reasonable time for him to decide about the transfer. Mr T emailed the documents to the Administrator later that day.
23. On 9 May 2018, the Administrator emailed Mr T to request details of his self-invested personal pension (**SIPP**) for the intended transfer.

24. On the same day, Mr T replied to say that the correspondence he had provided with his transfer paperwork should contain all the relevant information for his SIPP. He said he telephoned the Administrator the previous day and was assured that all the necessary information to proceed with the transfer had been received. He said he was told that if there were any subsequent problems with the documentation, he would be allowed sufficient time to rectify this. He asked for an update on his complaint, given that it was due for discussion on 26 April 2018.
25. On 25 June 2018, Mr T emailed the Administrator to ask for an update on his complaint.
26. On 29 June 2018, the Trustee sent its complaint response to Mr T. It had discussed his concerns on 14 June 2018 and the outcome was that it did not uphold the complaint. It set out that the December 2017 Value was an illustration, and he had not submitted a request for a guaranteed value at that time. This meant he did not have a legal right to the value he was quoted. It then incorrectly stated that Mr T transferred out of the Scheme based on the February 2018 Value, which was £2,106,943.
27. The Trustee did not accept Mr T's reasoning that he did not request a guaranteed CETV in December 2017, because of the incorrect information recorded in relation to his LTA protection. It said it was a member's responsibility to provide correct information to the Scheme about LTA protections and to query any unclear information with HMRC and/or a financial adviser. It considered that the Administrator responded promptly to the query Mr T had raised by email on 21 December 2017. It believed that Mr T was still considering his retirement options at that time and had not stated that he wanted a guaranteed CETV until 26 January 2018. It said that it was not required to inform Scheme members when it made changes to the actuarial factors used to calculate transfer values.
28. On 17 July 2018, Mr T emailed the Administrator. He was disappointed that the Trustee's discussion of his case had not taken place until 14 June 2018, when he was told this would happen on 26 April 2018. He said he was not informed of the change. He said the Administrator promised, during a telephone call on 8 May 2018, that he would be given an update on the complaint, but he did not receive this, nor did he receive a response to subsequent emails.
29. Mr T explained that the requirement to complete the transfer by 12 August 2018 left him with less than one month to follow up the complaint. He said that the Trustee's letter stated that he had left the Scheme, so he was unsure of the status of his transfer. He said he intended to pursue the complaint, but wanted to ensure that the February 2018 Value was protected. He asked the Administrator to advise on the status of his pension transfer, the options available to him, and the actions required to progress each of those options.

30. On 31 July 2018, Mr T emailed the Administrator to ask for a response to his request to extend the 12 August 2018 deadline for his pension transfer. He also asked whether it was possible to increase the transfer value as a result of the 4.1% annual increase applied to his deferred pension in May 2018.
31. On 6 August 2018, Mr T emailed the Administrator to chase its response to his queries.
32. On 7 August 2018, the Administrator emailed Mr T to advise that it required his confirmation that he wished to delay his pension transfer, pending the outcome of the complaint. It would then apply to The Pensions Regulator (**TPR**) to allow the transfer to take place outside the statutory six-month period. It confirmed that the deferred increase to his pension in May 2018 would not be included in the February 2018 Value. This could only be included if he withdrew his existing transfer request and requested a new transfer value, which would use the latest calculation factors.
33. On 8 August 2018, Mr T emailed the Administrator to confirm his wish to delay the transfer beyond the six-month period, in order to pursue the complaint. This was on the understanding that a transfer would not be refused, if TPR did not agree to the delay, and he could proceed at any time with the transfer based on the February 2018 Value. Further, if the complaint was unsuccessful, he had been assured that an updated CETV would be calculated at the time of transfer, and he would receive the higher of this amount or the February 2018 Value.
34. In the latter part of 2018, there were several exchanges of correspondence between Mr T and the Administrator. A copy of this correspondence has not been submitted to The Pensions Ombudsman, but Mr T has provided a summary. This indicates that the discussions mainly concerned the progress of Mr T's transfer and whether there was a deadline for completion.
35. On 4 February 2019, the Administrator emailed Mr T to ask if it would be possible to speak with him by telephone to discuss his transfer. Mr T has advised that a telephone call took place on 7 February 2019, during which he was told by the Administrator that the latest CETV exceeded the previous one available to him. The Administrator agreed to investigate what would be required for the transfer of Mr T's benefits, based on this new valuation.
36. On 13 February 2019, Mr T emailed the Administrator to ask for the further information it had said it would provide to him.

37. On the same day, the Administrator responded to confirm it would recalculate the CETV at the date Mr T gave confirmation that he wished to proceed with the transfer. This would then be compared to the previously guaranteed February 2018 Value, with additional interest. The Administrator advised that the CETV based on the February 2019 factors was approximately £65,000 lower than in January 2019. It said that it could guarantee the January 2019 value for Mr T, but he would need to complete the transfer forms again. If he chose not to proceed with this value, he would need to decide by 15 May 2019 if he wished to proceed with the transfer based on the higher of the latest value, or the February 2018 Value with additional interest. If this deadline was not met, Mr T would need to restart the transfer process.
38. On the same day, Mr T replied to ask what specific paperwork would be required to obtain the January 2019 value, proposed by the Administrator in its previous email. Later that day, the Administrator emailed Mr T to provide a list of the necessary forms. It confirmed that it would require an updated financial advice form for Mr T, irrespective of which transfer value option he chose.
39. Mr T has not provided a copy of the subsequent correspondence but has explained that he returned some of the completed transfer paperwork on 15 February 2019. The Administrator then asked him for further documentation on 6 March 2019, which he believed he had already provided. Mr T said that the Administrator acknowledged this on 8 March 2019 and all relevant paperwork was submitted by 9 March 2019.
40. On 16 May 2019, the Administrator wrote to Mr T to confirm that an amount of £2,305,441.04 was to be transferred to his SIPP within five working days. Mr T has advised that the transferred funds were received on 24 May 2019.

Mr T's position

41. His correct LTA position was not reflected on PensionLine. He felt compelled to ask the Administrator to amend his LTA information, before requesting a guaranteed CETV, otherwise he would have done so in December 2017. He was about to make a major financial decision, so wanted to ensure that the valuation was correct. He was aware that an individual can only request a guaranteed CETV once per year.
42. The Trustee said it was not clear that in December 2017, he was considering transferring his benefits out of the Scheme. However, it would have been known that he was accessing PensionLine and generating transfer values, in addition to his request to correct his LTA information. Despite this, the Trustee failed to inform him that the Scheme transfer value factors were being changed.
43. The Administrator failed to complete the correction of his LTA information within its advised timeframe. This denied him the opportunity to request a guaranteed CETV at the higher valuation point in December 2017, which would have been possible up to 10 January 2018. It appeared that the Administrator acted on his request, and applied one of the two LTA enhancement factors to PensionLine, on 5 January 2018. He is unclear why the Administrator did not notify him of this until he made contact on 12 January 2018.

44. His complaint was not dealt with in a reasonable timeframe. This led to a delay of around 18 months for his pension transfer and meant he had to retire later than planned. The delay caused him an investment loss of around 20%. He is seeking redress for the shortfall in his eventual transfer value, compared with the December 2017 Value, plus his investment loss due to the lower value and transfer delay. He has also suffered distress and inconvenience because of this issue.

The Trustee's position

45. Mr T contacted the Administrator about his LTA discrepancy on 21 December 2017. The Administrator notified Mr T the following day that it would respond within 10 to 12 working days, and it did so on 12 January 2018.
46. When Mr T registered the query in December 2017, his PensionLine account had been updated to reflect an LTA of £1.5 million, in line with his Fixed Protection 2014, but did not reflect his Enhanced LTA. The Administrator then noted that one of Mr T's LTA enhancement factors was unusually high. It is a member's responsibility to ensure that they provide correct information and to verify this with HMRC.
47. Mr T obtained a retirement quotation and CETV illustration on 21 December 2017. The illustration highlighted that the value was not guaranteed.
48. Retirement is a benefit crystallisation event, and it would need a check to be made against Mr T's LTA. The quotation recorded his LTA as £1.5 million, but it had no bearing on the calculation of the CETV.
49. Mr T's specific intention to obtain a guaranteed CETV was first communicated to the Administrator on 26 January 2018.
50. It was not obliged to inform Scheme members of changes to the actuarial factors used in the calculation of transfer values. It has a duty to consider the financial interests of all members and it would not have been appropriate to contact members to advise that transfer value factors could decrease.
51. It has offered £1,000, in recognition of the distress and inconvenience Mr T was caused on the occasions its service fell short of its standards. This offer was confirmed following The Pensions Ombudsman's initial investigations.

Adjudicator's Opinion

52. Mr T's complaint was considered by one of our Adjudicators, who concluded that the Trustee should pay £1,000 to Mr T in recognition of the serious distress and inconvenience he was caused. The Adjudicator's view was that Mr T had not suffered any financial injustice. The Adjudicator's findings are summarised below:-
- The Administrator's failure to correctly update Mr T's PensionLine account, after he had submitted his LTA certificates in May 2017, amounted to maladministration. However, the Administrator's subsequent communication about Mr T's LTA position did not amount to maladministration and it responded to his email of 21 December 2017 within the timeframe it had indicated.
 - There was insufficient evidence to conclude that, if Mr T's PensionLine account had shown his correct LTA position, he would have requested a guaranteed CETV within the December 2017 valuation period. It was not until the telephone call of 26 January 2018 that Mr T informed the Administrator of his intention to obtain a guaranteed CETV. By this point, Mr T's CETV could not be calculated using the December 2017 valuation factors.
 - Mr T was not entitled to the December 2017 Value and the Administrator could not reasonably have known that Mr T was waiting for his LTA information to be corrected before requesting a guaranteed CETV.
 - The Trustee was not required to inform Mr T in advance that from January 2018, changes were to be made to the Scheme's transfer value factors.
 - It was Mr T's decision to pause the transfer of his benefits out of the Scheme until the Trustee had provided its complaint response. The overall time taken by the Trustee to respond to Mr T's complaint was not unreasonable. Once this matter had been addressed, the transfer was completed in reasonable time.
 - Neither the Trustee, nor the Administrator, was responsible for any investment loss that Mr T may have suffered as a consequence of his transfer being delayed.
 - The £1,000 offered to Mr T by the Trustee was a reasonable recognition of the distress and inconvenience he had experienced.
53. Mr T did not accept the Adjudicator's Opinion and the complaint was passed to me to consider. Mr T has provided further comments which do not change the outcome. I agree with the Adjudicator's Opinion and note the additional points raised by Mr T below:-
- There is no excuse for the Administrator failing to apply the LTA factors to his PensionLine account in May 2017, when he first submitted the information. This maladministration meant that the illustration he obtained on 21 December 2017 was incorrect. It justified his decision to wait for the LTA to be corrected before he requested a guaranteed CETV, which he could only do once a year.

- The Administrator only partially acted upon his email of 21 December 2017, and it failed to properly correct his LTA record on PensionLine. It also failed to contact him as promised, either to let him know that his record had been amended, or about the concern regarding one of his LTA factors.
- Using the website www.work-day.co.uk, it can be shown that the Administrator did not respond within the promised 10 to 12 working days timeframe. He had to contact the Administrator after the 12 working days had elapsed to prompt it to deal with his query.
- The Administrator informed him that it would have been possible to use the December 2017 valuation factors for his guaranteed CETV within the first 10 days of January 2018. If the Administrator had correctly recorded his Enhanced LTA from the outset, he would have obtained the higher CETV, and the transfer of his benefits could have proceeded without delay.
- There is no evidence to support the Adjudicator's opinion that he would not have requested a guaranteed CETV within the December 2017 valuation period, had PensionLine shown his correct LTA position. The fact that he accessed a pension illustration on 21 December 2017, and subsequently proceeded to transfer his benefits out of the Scheme, proves that this was something he was serious about.
- While he could have asked the Administrator to clarify whether an incorrect LTA would have made a difference to his CETV, there is no evidence that the Administrator would have responded to this query in time for him to obtain the December 2017 Value. His decision to wait for PensionLine to be corrected should not have prevented him from achieving this value.
- The Trustee has made contradictory claims. It has implied that his LTA enhancement factor was not applied to his PensionLine account, because the Administrator suspected it was incorrect. However, the Trustee also said that it will not be aware of members' full circumstances, so neither it, nor the Administrator, is in a position to highlight any potential inaccuracies in HRMC correspondence with members.
- The Trustee has claimed that it was not obliged to inform members of changes to transfer factors. However, he was told on 7 February 2019 that the most recent transfer value calculation was better than the previous one available to him, and on 13 February 2019, he was informed that the February 2019 valuation factors had worsened compared to the January 2019 factors.
- The Trustee only considered two of the three complaint points he raised. His complaint was very clearly documented on his IDRP form, dated 15 March 2018. The Trustee did not address all the failings that he identified.

54. The Trustee has also submitted further comments, following the issue of the Adjudicator's Opinion, which are summarised below:-

- The benefit illustration Mr T obtained from PensionLine on 21 December 2017 was not a guaranteed CETV. The Administrator would not have been notified of this and was first made aware of Mr T's intention to transfer in the correspondence of 26 January 2018. If Mr T had communicated his intention to the Administrator at an earlier date, it may have been possible to have provided a guaranteed CETV sooner than was the case.
- The Administrator provided a response to Mr T's query, raised in his email dated 21 December 2017, within its advised timeframe. The Administrator applied one of Mr T's LTA factors to PensionLine on 5 January 2018 and queried the other, higher, factor on 12 January 2018. It considers that it was reasonable to have questioned this factor.
- Mr T's LTA position had no effect on his CETV. It was for Mr T to determine how the LTA might affect his retirement options. The Administrator is unable to ascertain a Scheme member's overall LTA position with certainty, because this will depend on the extent of any benefits they hold in other pension schemes.
- The information in relation to transfer value factors, given to Mr T by the Administrator in February 2019, was issued in good faith to assist Mr T. It followed the understanding of his circumstances that the Administrator had built up from the previous correspondence.
- It considers that although it did not explicitly restate all of Mr T's complaint points in its response, it did address each of the points in the body of the letter.

Ombudsman's decision

55. Mr T complained that the Administrator's failure to correctly record his LTA position on PensionLine prevented him from requesting a guaranteed CETV during the December 2017 valuation period. The CETV he subsequently received was lower than the December 2017 value.

56. Mr T emailed the Administrator on 21 December 2017 to ask for his Enhanced LTA to be shown on PensionLine. The Administrator emailed Mr T the following day and set out that it would address his request in up to 12 working days. On 5 January 2018, the Administrator added an enhancement factor of 0.02 to Mr T's PensionLine account, although it did not notify Mr T of this at the time.

57. Mr T emailed the Administrator again on 12 January 2018 and it replied that day to ask if the higher LTA enhancement factor of 11.41 was correct. Although the Administrator's email of 12 January 2018 appears to have been prompted by Mr T's correspondence, I find that this was the twelfth working day after 22 December 2017. The working days in between these two dates were 27, 28 and 29 December 2017, and 2, 3, 4, 5, 8, 9, 10 and 11 January 2018.
58. While the Administrator could have handled Mr T's request of 21 December 2017 more effectively, I find that its actions on this point do not amount to maladministration. The Administrator added the lower of Mr T's two LTA enhancement factors to PensionLine. The second factor was unusually high, so it was not unreasonable for the Administrator to have asked for confirmation that it was correct. This did not mean that the Administrator possessed full knowledge of Mr T's overall position, with regard to his LTA and total pension benefits held.
59. However, I find that the Administrator's failure to update Mr T's LTA on PensionLine, after the original submission of his certificates on 19 May 2017, does amount to maladministration. The Administrator did not seek to question the higher enhancement factor of 11.41 until the correspondence of December 2017 and January 2018. Given that there was maladministration by the Administrator, it must be determined whether this was responsible for Mr T failing to obtain a CETV at the December 2017 Value.
60. In order for me to conclude that the Administrator's initial maladministration of Mr T's LTA record has caused a financial loss, there would need to be evidence that the error stopped Mr T from obtaining the December 2017 Value. I find no evidence that this was the case. Mr T said he learned in January 2018 that the LTA did not affect his CETV. It is unfortunate that his decision to wait to discuss this point has led to a lower transfer value, but if he had raised it with the Administrator in December 2017, he could have requested a guaranteed CETV at that time.
61. Mr T's email of 21 December 2017 only highlighted his concern about the LTA recorded on PensionLine. Although Mr T asked to be notified when PensionLine had been corrected, it would not be reasonable to expect the Administrator to have known that he wanted this action to be taken before he requested a guaranteed CETV.
62. Mr T has asserted that his actions prior to January 2018 had demonstrated his intention to transfer. It is necessary to draw a distinction between an individual who is considering the transfer of their pension benefits and a request made for a guaranteed CETV. I do not doubt that Mr T was considering the transfer of his benefits in December 2017, but I find that his requirement for a guaranteed CETV was not explained until 26 January 2018, in his correspondence with the Administrator. There is no evidence that the Administrator was made aware of Mr T's intention before this date.

63. Mr T has subsequently expressed concerns about the time the Administrator may have taken to respond to being told of his intention to transfer and whether it would have enabled him to request a guaranteed CETV within the December 2017 valuation period. I find that the Administrator cannot be held responsible for Mr T's initial decision, in December 2017, to not set out his wider intention regarding the transfer of his benefits.
64. I find that the Trustee was not obliged to have notified Mr T in advance of any changes to be made to the transfer value factors. The correspondence with the Administrator, which took place in February 2019, was part of a discussion about the delayed transfer of Mr T's pension and a comparison of his latest CETV with previous CETVs that had been calculated. I find no evidence that the Administrator informed Mr T of specific changes to transfer value factors that were to be made in the future.
65. Guidance provided by The Pensions Regulator states that under an IDRP, it is expected that a decision on a dispute will be made within four months of receipt of the complaint. I find that the Trustee's letter dated 29 June 2018, in response to the complaint Mr T raised on 16 March 2018, was issued within this timeframe. It was then Mr T's choice to wait for the further consideration of his complaint before proceeding with the transfer of his benefits out of the Scheme. Once initiated, the transfer itself was completed within the statutory six-month period. I find that the Trustee is not liable for any investment loss Mr T may have incurred as a consequence of his decision to delay the transfer of his benefits out of the Scheme.
66. I find that Mr T has suffered serious distress and inconvenience, due to the Administrator's maladministration of his LTA record and the correspondence he had to undertake in seeking a resolution to this matter. I find that the Trustee's offer of £1,000 is a reasonable acknowledgment of the distress and inconvenience that Mr T has been caused.
67. Mr T's complaint is partly upheld.

Directions

68. Within 28 days of the date of this Determination, the Trustee shall pay £1,000 to Mr T in respect of the maladministration, which has caused him serious distress and inconvenience.

Anthony Arter CBE

Deputy Pensions Ombudsman
5 October 2023