

Ombudsman's Determination

Applicant	Mr N
Scheme	Barclays Bank UK Retirement Fund (the Fund)
Respondent	Barclays Pension Funds Trustees Limited (the Trustee)

Outcome

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

Complaint summary

2. Mr N has complained that he received poor service, causing payment of his retirement benefits to be delayed. Mr N has also complained that an incorrect tax code has been applied, and that his investment growth in the Fund was poor due to mismanagement by the Trustee.

Background information, including submissions from the parties

3. 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.
4. On 17 December 2001, Mr N joined the Fund, a defined contribution (**DC**) arrangement, following the commencement of his employment with Barclays Bank (**the Bank**).
5. On 12 February 2002, Mr N left the Fund and became a deferred member.
6. On 12 April 2002, Barclays Pensions Administration (**BPA**), the Fund's administrator at the time, wrote to Mr N confirming that he could transfer out of the Fund if he wished to do so. Attached to the letter was a statement (**the leaver statement**) which quoted a fund value of £100.46 valued at 12 April 2002.
7. In 2006, BPA sent Mr N an annual benefit statement (**the 2006 ABS**), which quoted a fund value of £137.00 on 5 April 2006 and a pension of £11 per year from age 60, based on a projected fund value of £319. A note in the 2006 ABS confirmed that Mr N had invested in the Fund's lifestyle strategy.
8. A covering letter with the 2006 ABS also stated:-

“As a deferred member of the [Fund], your pension depends on the performance of investment funds chosen by you...”

9. In 2010, BPA sent Mr N an annual benefit statement (**the 2010 ABS**), quoting a fund value of £193.64 on 6 April 2010 and a projected pension of £11.94 per year from age 60.
10. In 2019, WTW, the Fund’s new administrator, sent Mr N an annual benefit statement (**the 2019 ABS**), quoting a fund value of £328.59 on 5 April 2019 and a pension of £7.49 a year from age 60 based on a projected fund value of £370. A disclaimer in the statement stated:-

“The figures and information in this benefit statement are for illustrative purposes only. They do not provide you with any promise or guarantee in relation to your benefits or the amount of income you’ll receive when you access your Retirement Savings...”
11. On 9 July 2019, Mr N emailed WTW and said that he would like to make a partial retirement claim and take a 25% lump sum from his retirement benefits in the Fund, having passed age 55.
12. On 12 July 2019, WTW emailed Mr N and said there was a discrepancy regarding his National Insurance Number and date of birth in his record. So, he would be required to submit evidence of identity (**EOI**) documents including his original birth certificate, a payslip, and a HM Revenue & Customs (**HMRC**) certificate, or a National Insurance card to update his personal details.
13. On 16 July 2019, Mr N emailed WTW and attached certified copies of the requested EOI documents.
14. On 30 July 2019, Mr N emailed WTW and complained that it was unreasonable of WTW to require original EOI documents; he wanted details of WTW’s complaints process. Mr N said that he would be happy to submit his original EOI documents in person at WTW’s London office, and not send the information by post.
15. On 1 August 2019, WTW emailed Mr N and said:-
 - The Data Protection Act 2018 (**the 2018 Act**) required that information held regarding members was accurate and that action was taken to protect their personal details. Rather than sending original EOI documents, he could obtain certified copies by presenting the original versions at any Barclays Bank branch or a local solicitor’s office. The certified copies could then be forwarded to WTW.
 - His email of 9 July 2019 had been sent from an unknown email address and notified a change of postal address. That email also confirmed a date of birth and National Insurance Number that did not match his existing records. In order to verify those details, he had been asked to send original EOI documents.

- It would not be possible to provide benefit details until he had provided the requested information. In the meantime, only generic details would be confirmed, including, that a member could not make a partial retirement claim for a 25% tax-free lump sum directly from the Fund.
 - He could submit a complaint via email or by post and a response would be sent within 10 working days.
16. On 10 August 2019, Mr N emailed certified copies of his passport, driving licence and birth certificate to WTW.
 17. On 13 August 2019, WTW emailed Mr N apologising for not responding to his complaint within 10 working days and also provided a copy of the Scheme's Internal Dispute Resolution Procedure (**IDRP**). WTW said a response to Mr N's complaint and a retirement quotation would be sent once his EOI checks had been completed. Mr N could claim all of his benefits directly from the Fund as a small pots lump sum with a 25% tax-free portion.
 18. On 24 August 2019 and 30 August 2019, Mr N emailed WTW and complained that he had submitted EOI documents on 10 August 2019. He was also unhappy as there had been a delay in responding to his complaint of 30 July 2019.
 19. On 10 September 2019, WTW emailed Mr N and said he had not provided original EOI documents, as previously requested. However, if he confirmed his home address in 2002, a retirement quotation would be sent.
 20. Mr N emailed WTW and reiterated that he was happy to attend WTW's London office to submit his EOI documents in person but would not post the documents. Mr N said he had also provided certified copies of his EOI documents, and that his personal details were checked by the Bank at the time of his employment.
 21. Between 17 September 2019 and 15 November 2019, Mr N emailed WTW on several occasions complaining that it lost certified EOI documents he had previously submitted.
 22. On 28 November 2019, WTW emailed Mr N and said a search would be undertaken for any hard copies of his EOI documents, if he provided proof of posting those documents or a related Royal Mail tracking number. WTW also reiterated that an exception to its normal data security processes would be allowed in his case. His benefit details would be confirmed once he emailed his postal address details from 2002.
 23. Mr N emailed WTW in response and provided certified copies of the requested EOI documents. He also confirmed that his address in 2002 was either of two quoted in the email.
 24. On 3 December 2019, WTW emailed Mr N a benefit statement (**the December 2019 Statement**) which confirmed that he could claim an estimated small pots lump sum of £341.56, and it also stated, "...Your actual benefits will be worked out at the time they

are due to be paid, based on the Trust Deed and Rules and the laws in force at the time you take your benefits...”.

25. WTW also said that Mr N would be required to complete and return a payment instruction form (**PIF**) that was attached to the email to claim a small pots lump sum.
26. Mr N emailed WTW in response and complained that it had taken around six months to provide his benefit details and he was unhappy with the growth on his investments in the Fund.
27. On 17 December 2019, WTW emailed Mr N with a copy of the Fund’s IDRP and confirmed that:-
 - The information he had provided on 28 November 2019 was sufficient to confirm his identity and send his benefit details.
 - Pensions legislation required a member to be at least age 55 before retiring. Since he had ‘not satisfied that requirement’, it would not be possible for him to immediately take the small pots lump sum option.
28. Mr N emailed WTW to confirm that he had reached age 55 and ought to qualify for immediate payment of a small pots lump sum. He said that WTW had incorrectly assumed that this was not the case due to poor record keeping.
29. On 18 December 2019, WTW emailed Mr N reiterating that he could formally make a complaint under the IDRP and said:-
 - An incorrect date of birth had been held on his record, which resulted in the inappropriate conclusion reached in the email of 17 December 2019, that he was under age 55 and did not qualify for immediate benefits.
 - If he returned the PIF that was attached to the letter of 3 December 2019, his retirement claim would be processed.
30. On 23 December 2019, Mr N complained under stage one of the IDRP and said he had provided WTW with EOI documents on several occasions confirming that he had reached age 55. He said the service provided by WTW had been poor and delayed payment of his retirement benefits, causing him financial detriment.
31. On 9 January 2020, Mr N emailed WTW his completed PIF with instructions for his small pots lump sum to be paid by cheque.
32. On 29 January 2020, Mr N emailed WTW chasing payment of his retirement benefits and resubmitted his PIF.
33. On 13 March 2020, WTW emailed Mr N and said a review had established that the PIF and EOI documents sent by post on 9 January 2020 had not been received. WTW said it had also not been possible to open a zip-file containing the PIF he resubmitted by email on 29 January 2020 and requested that he send the information again.

34. On 17 March 2020, Mr N resubmitted his PIF to WTW as requested, asking for payment to be made by cheque.
35. On 23 March 2020 and 27 March 2020, Mr N emailed WTW chasing payment of his benefits.
36. On 16 April 2020, WTW emailed Mr N and said that it would not be possible to pay his small pots lump sum by cheque due to measures that had been put in place due to the COVID-19 pandemic. He was required to complete and submit a new PIF requesting payment by bank transfer.
37. Mr N subsequently completed and submitted his new PIF, confirming his intention to claim the benefits as a small pots lump sum by bank transfer.
38. On 28 April 2020, Mr N chased WTW for payment of the benefits.
39. On 30 April 2020, the Trustee wrote to Mr N in response to his complaint under stage one of the IDRP and said:-
 - His date of birth and National Insurance Number had initially been recorded incorrectly in WTW's records. The error was eventually identified after WTW received his email of 9 July 2019. WTW then requested his original EOI documents to verify his correct details in accordance with normal procedures.
 - Further investigations established that the initial incorrect data held in WTW's records had been consistent with information held in the Bank's HR records at the time he joined the Fund in 2001. The incorrect date of birth had also been quoted in all annual benefit statements sent to him after leaving the Fund in 2002. So, the incorrect details did not originate from any errors made by either WTW or the Trustee.
 - It was necessary to verify his identity before updating his record and clarifying his benefit details, as requested in the email dated 9 July 2019. Since standard EOI documents were not subsequently provided, WTW asked him to send alternative information on 28 November 2019. Having then received this information, WTW was able to send the December 2019 Statement.
 - Although on 17 December 2019, WTW incorrectly stated that he could not claim benefits due to not having reached age 55, that conclusion was reversed on the following day. There had been no intention to deliberately mislead him. The initial errors in his record had resulted from historic misinformation that cannot be accounted for, rather than poor record keeping by WTW.
 - WTW's email of 28 November 2019 requested proof of posting or a tracking number for the EOI documents he posted. That information was never received so it was not possible to conclude with any certainty that the EOI documents were lost. WTW had correctly requested appropriate EOI documents under its normal procedures. So, there was no intention to deliberately obstruct or delay a retirement claim.

- At the time of leaving the Fund, he had the option to transfer out, if he felt that higher growth could be achieved by doing so. Since he did not take that option, his benefits remained invested in the lifestyle fund. The investment funds available to members were reviewed regularly by the Trustee. It was not possible to make direct comparisons with external investment opportunities.
40. On 4 May 2020, WTW emailed a letter to Mr N dated 4 May 2020, confirming that his retirement date was 1 May 2020 and that he would receive a small pots lump sum of £305.53 gross.
41. On 20 May 2020, Mr N appealed under stage two of the IDRP.
42. On 16 September 2020, the Trustee wrote to Mr N reiterating its response provided in the letter of 30 April 2020 and confirming that his complaint had not been upheld. The letter also stated that:-
- WTW should have responded to his email of 9 January 2020 earlier, his funds would then have been disinvested on or around 14 January 2020. This would have provided a fund value of £350.45, rather than £305.53.
 - As a consequence of the delay in responding to the email of 9 January 2020, he had received an underpayment of £44.92. This should be corrected by paying him that sum subject to any applicable tax deduction requirements. An award of £100 to Mr N was also appropriate.

Mr N's position

43. It is unclear why the small pots lump sum he received was not £370 as stated in the 2019 ABS. The tax rate applied to the small pots lump sum as shown in his P45 was also incorrect; no tax should have been deducted.
44. The growth on his investments in the Fund was poor reflecting the mismanagement of the Fund. Almost all of his other pension arrangements invest in overseas based funds that achieve significantly higher growth and offer more efficient processes.

The Trustee's position

45. WTW's email dated 1 August 2019, provided Mr N with alternatives to providing original EOI documents. It would not have been possible for Mr N to submit original EOI documents in person at WTW's London office for security reasons.
46. WTW's email dated 28 November 2019 stated that Mr N could send evidence such as a Royal Mail tracking number to support his assertion that he had posted original EOI documents.
47. WTW delayed responding to Mr N's email of 29 January 2020 until 13 March 2020 due to an error and failed to appropriately update Mr N.

48. WTW also delayed responding to Mr N's email dated 17 March 2020 until 16 April 2020, 15 working days beyond the normal 5-day Service Level Agreement (**SLA**) timescale. At the time WTW was considering whether a cheque payment could be made to Mr N.
49. A national lockdown in response to the COVID-19 pandemic announced by the Government on 23 March 2020 also had an adverse impact on processing Mr N's retirement claim.
50. The sum of £370 that Mr N has claimed was quoted in the 2019 ABS was an estimated projection to his NRA in December 2029; that figure was not guaranteed. Mr N's actual fund value fund on 5 April 2019 was £328.59.
51. WTW received a PIF from Mr N on 16 April 2020 and disinvested his pension fund on 20 April 2020 within standard timescales. It could then have taken between 10 to 15 working days for the benefits to be disinvested under normal procedures. So, the payment was made to Mr N on 1 May 2020 and a confirmation letter sent to him on 4 May 2020.
52. WTW's letter dated 4 May 2020 confirmed that Mr N would be entitled to a taxable small pots lump sum of £305.53 gross rather than an annual pension, and that a P45 would be provided following the payment. The letter also informed Mr N that the tax deducted may not be correct and that he would need to address this with HMRC.
53. While the total small pots lump sum amounted to £305.53, only 25% of that figure or £76.38 was payable tax-free. There remained a taxable portion of £229.15 on which the basic rate of 20% was applied in accordance with HMRC Pay As You Earn (**PAYE**) regulations.
54. Both the underpayment of benefits amounting to £44.92 and the £100 award offered to Mr N at stage two of the IDRP have not been paid. Those offers remain open to Mr N for acceptance.

Adjudicator's Opinion

55. Mr N's complaint was considered by one of our Adjudicators who concluded that no further action was required by the Trustee. The Adjudicator's findings are summarised below:-
 - Mr N initially contacted WTW on 9 July 2019 and said he would like to claim his retirement benefits. WTW's email dated 12 July 2019 subsequently confirmed that Mr N would be required to submit original EOI documents to update his personal details before his claim could be processed. Mr N provided certified copies of the requested EOI documents on 16 July 2019 and 10 August 2019. But there is no evidence that Mr N submitted original EOI documents to WTW at or around that time.

- WTW's email dated 1 August 2019 explained Mr N's original EOI documents had been requested to comply with the 2018 Act. Between 17 September 2019 and 15 November 2019, Mr N emailed WTW on several occasions complaining that it had lost his EOI documents. However, Mr N provided no evidence of having posted his original EOI documents in response to WTW's email dated 28 November 2019. That email also stated that an exception would be made to its normal EOI requirements if Mr N confirmed his postal address in 2002.
- In the Adjudicator's opinion WTW could not be held responsible for any delays up to 28 November 2019, having initially acted in accordance with its normal procedures and appropriately considered the 2018 Act. This was not evidence of WTW obstructing Mr N's retirement claim. After receiving Mr N's 2002 address details on 28 November 2019, WTW sent him a retirement quotation on 3 December 2019 with a related PIF. Mr N completed and returned the PIF to WTW on 9 January 2020. It was not until 13 March 2020 that WTW emailed Mr N in response and said the PIF had not been received, and it had also not been possible to open a zip-file containing the PIF that he resubmitted by email on 29 January 2020.
- In the Adjudicator's opinion the delay in WTW sending a response to Mr N between 9 January 2020 and 13 March 2020, amounted to maladministration. However, the Trustee offered Mr N an award of £44.92 to mitigate the financial loss he had incurred as a result of the delay. Mr N subsequently sent a new PIF to WTW on 17 March 2020. But it was not until 16 April 2020 that WTW emailed Mr N and said that he needed to complete and submit a revised PIF requesting payment by bank transfer. The Trustee has acknowledged that this delay was outside of WTW's SLA of five working days. In the Adjudicator's view this poor service amounts to further maladministration by WTW acting on the Trustee's behalf.
- Mr N submitted a revised PIF on 16 April 2020 and WTW wrote to him on 4 May 2020, confirming that he would receive a small pots lump sum of £305.53 gross in accordance with normal timescales. WTW said that Mr N could contact HMRC regarding a rebate if excess tax was deducted from that sum. In the Adjudicator's opinion this did not amount to maladministration since WTW was required to deduct PAYE tax at the basic rate in order to comply with HMRC regulations.
- The figure of £370 quoted in the 2019 ABS was a retirement projection at age 60 and not a guaranteed benefit entitlement. So, in the Adjudicator's view there is no evidence that WTW provided Mr N with misleading information on behalf of the Trustee regarding the quotation. There was also no requirement for the Trustee to allow Mr N to claim just the 25% tax-free element of his benefits directly from the Fund.
- Regarding Mr N's complaint that the growth on his investments in the Fund was poor, the covering letter with the 2006 ABS confirmed that his benefits depended on the performance of any investment funds that he made contributions into. It is

an inherent feature of DC arrangements, such as the Fund, that the value of a member's investments can fluctuate depending upon market conditions. So, in the Adjudicator's opinion, it was for Mr N to consider his options with regard to his investments in the Fund. Mr N had the option to transfer out of the Fund if he considered that more growth on his investments could have been achieved by doing so.

- Mr N did not elect to transfer out and as a result his benefits in the Fund remained invested in a Lifestyle Fund which is a type of fund designed for individuals who do not make active fund choices over the course of their working life. It is not therefore possible to compare the growth in the Fund to that of Mr N's other pension arrangements invested in overseas based funds. In my opinion, there is no evidence to support that there was any mismanagement of the Fund by the Trustee and it cannot be held responsible for Mr N's perceived lack of investment growth of his benefits in the Fund.
- WTW provided its complaints handling procedure in the email dated 1 August 2019, in response to Mr N's enquiry of 30 July 2019. WTW's subsequent emails dated 13 August 2019 and 17 December 2019 included a copy of the Fund's IDRP. WTW also emailed Mr N on 18 December confirming that he could formally complain under the IDRP. In the Adjudicator's opinion there is no evidence of maladministration by WTW on behalf of the Trustee in providing its complaints handling procedures to Mr N.
- In the Adjudicator's opinion there was no evidence of financial loss to Mr N resulting from maladministration by WTW on behalf of the Trustee. The Trustee had offered Mr N an award of £44.92 in recognition of the underpayment caused by the delay in WTW responding to his email of 9 January 2020. There was also insufficient evidence to conclude that there was poor growth on Mr N's investments in the Fund due to mismanagement by the Trustee.
- The maladministration identified would have caused Mr N distress and inconvenience. In the Adjudicator's opinion the £100 award that the Trustee offered Mr N was appropriate recognition of this.

56. The Trustee accepted the Adjudicator's Opinion, Mr N did not, and the complaint was passed to me to consider. I agree with the Adjudicator's Opinion and note that neither the Trustee nor Mr N made any additional points.

Ombudsman's decision

57. Mr N complained that he received poor service, causing payment of his retirement benefits to be delayed. Mr N also complained that an incorrect tax code has been applied, and that his investment growth in the Fund was poor due to mismanagement by the Trustee.

58. I acknowledge that there were delays as a result of poor service by WTW including a lack of communication between 9 January 2020 and 13 March 2020. There was a further delay between 17 March 2020 and 16 April 2020 when WTW told Mr N that it would not be possible to pay his benefits by cheque and that he would need to complete and submit a revised PIF requesting payment by bank transfer.
59. However, while I find that these delays amount to maladministration by WTW acting on behalf of the Trustee, the Trustee has offered an award of £44.92 to mitigate the financial loss Mr N incurred as a result of the delay.
60. Further, WTW correctly deducted PAYE tax from Mr N's small pots lump sum in accordance with HMRC regulations. It was for Mr N to claim a rebate by contacting HMRC if he felt that excessive tax had been deducted.
61. Mr N has also provided no evidence in support of his claim that the Trustee mismanaged his investments in the Fund, and that this caused poor growth on those investments. Mr N could, in any event, have transferred out of the Fund if he believed that larger growth would have been achieved elsewhere.
62. I find the £100 award that the Trustee offered Mr N is sufficient recognition of any distress and inconvenience which he has suffered. Mr N should contact the Trustee if he would now like to accept both the £100 and £44.92 awards.
63. I do not uphold Mr N's complaint.

Anthony Arter CBE

Deputy Pensions Ombudsman

4 October 2024