

Ombudsman's Determination

Applicant	Mr K
Scheme	The LV= Employee Pension Scheme (the Scheme)
Respondent	The LV= Pension Trustee Limited (the Trustee)

Outcome

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

Complaint summary

2. Mr K has complained that he suffered financial detriment, having made commitments based on several retirement quotations that the Trustee subsequently confirmed were incorrect.

Background information, including submissions from the parties

3. On 1 March 1979, Mr K joined the Scheme with a normal retirement date (**NRD**) of July 2026 at age 65.
4. On 30 January 2004, Mr K left pensionable service and became a deferred member of the Scheme.
5. On 1 April 2008, Mr K commenced employment with Transport Friendly Society (**the Employer**) and became a member of the Transport Friendly Society Pension Scheme (**the Transport Scheme**), a defined benefit arrangement.
6. On 10 March 2015, Willis Towers Watson (**WTW**), the Scheme's administrator, sent Mr K a retirement quotation (**the March 2015 Quotation**) for retirement in July 2016. It quoted benefits including a pension commencement lump sum (**PCLS**) of £110,489.08 plus an annual pension of £16,573.36 based on a date of leaving pensionable service (**DOL**) of 19 June 2002.
7. On 16 March 2015, Mr K telephoned WTW and said he had left pensionable service on 30 January 2004, not in 2002 as stated in the March 2015 Quotation.

8. On 27 May 2015, Mr K telephoned WTW to chase a response to his enquiry and was told that his date of leaving would be amended and a revised retirement quotation sent to him.
9. Between 20 July 2015 and 7 September 2015, Mr K telephoned WTW on three occasions to chase this information.
10. On 10 September 2015, WTW sent Mr K a revised retirement quotation (**the September 2015 Quotation**) for retirement in July 2016. It set out benefits including a PCLS of £126,492.74 plus an annual pension of £18,973.91 based on a DOL of 30 January 2004.
11. A disclaimer in the 2015 Quotation stated:

“This statement is for information only. We have made every effort to make sure that it is accurate. It is based on the information that is available and the laws in force at the time the statement was produced. If any of the benefits shown are incorrect, this does not mean you are entitled to these benefits as the statement is not binding on the [Trustee].

Your actual benefits will be worked out at the time they are due to be paid, based on the [Scheme’s] Trust Deed and Rules and the laws in force at the time you take your benefits.”
12. On 27 July 2016, Mr K telephoned WTW and asked for a retirement quotation for benefits from July 2016.
13. On 3 August 2016, WTW sent Mr K the retirement quotation he had requested (**the 2016 Quotation**). It quoted benefits including a PCLS of £147,125.34 plus an annual pension of £22,068.80 based on a date of leaving pensionable service of 19 June 2002. The disclaimer that had previously been set out in the 2015 Quotation was also included.
14. On 15 August 2016, Mr K telephoned WTW to say an incorrect DOL had been quoted in the 2016 Quotation. WTW replied that a revised version of the quotation with new figures would be sent.
15. On 22 August 2016, WTW sent Mr K a revised version of the 2016 Quotation (**the revised 2016 Quotation**). It set out benefits including a PCLS of £140,963.78 plus an annual pension of £21,144.56 based on a DOL of 30 January 2004.
16. On 31 December 2016, Mr K retired under the Transport Scheme.
17. On 13 August 2019, Mr K telephoned WTW and asked for a retirement quotation for benefits from July 2019.
18. On 20 August 2019, WTW sent Mr K the requested retirement quotation (**the 2019 Quotation**). It quoted benefits including a PCLS of £152,323.64 plus an annual pension of £22,848.55. The disclaimer that had previously been included in the 2015 Quotation was also reiterated.

19. On 20 November 2019, Mr K telephoned WTW to ask for a retirement quotation and a retirement claim form to take his benefits under the Scheme from 28 February 2020.
20. Between 3 January 2020 and 7 February 2020, Mr K telephoned WTW on five occasions to chase these documents.
21. On 11 February 2020, WTW emailed Mr K and said that while calculating the retirement quotation he had requested in January 2020, a reduction in the figures previously quoted in the 2019 Quotation had been identified. This matter had been referred to WTW's Actuarial Team (**the Actuary**) for review.
22. On 28 February 2020, WTW sent Mr K a retirement claim form and retirement quotation to take his benefits on 28 February 2020 (**the 2020 Quotation**). It set out benefits including a PCLS of £131,125.63 plus an annual pension of £19,668.84.
23. On 3 March 2020, Mr K submitted his retirement claim form to take the benefits set out in the 2020 Quotation. He also attached a letter complaining that:-
 - He had reviewed his pensions in 2015, following a period of ill health. In addition to his membership in the Transport Scheme, he also held a stakeholder pension policy with Friends Life. Over the following five years he had received five retirement quotations from WTW and 'the figures provided were consistent.'
 - Some of the retirement quotations he received between 2015 and 2019 contained an incorrect DOL. So, he had informed WTW of this and then assumed that his records would be updated and a check made on any subsequent retirement calculations.
 - It was unclear whether the 2020 Quotation was correct. However, the figures previously set out in the 2015 Quotation and the 2016 Quotation were higher. So, he had decided to retire under the Transport Scheme in December 2016. At the time, he was aged 55 and would have retired a year later if he had known the correct benefit entitlements in 2015 and 2016.
 - Having subsequently received the 2019 Quotation, he agreed to partly fund house purchases and home improvements for his children. He suffered financial detriment as a consequence of making these decisions. So, he would like the benefits set out in the 2019 Quotation to be honoured.
24. On 2 April 2020, WTW wrote to Mr K and said:-
 - The benefits stated in his retirement quotations provided between 2015 and 2019 had been calculated incorrectly. His correct pension, based on the 2020 Quotation, would go into payment on 6 April 2020 including some instalment arrears that were due.
 - His benefits could only be calculated and paid in accordance with the Scheme's Trust Deed and Rules (**the Scheme Rules**).

- To uphold his complaint, Mr K would need to provide evidence that he had reasonably relied on the overstated retirement quotations sent to him between 2015 and 2019, and that he suffered financial detriment as a direct result.
- There had been a delay in processing his retirement claim, and the general standard of service provided to him had been poor. So, an award of £1,000 in recognition of the resulting distress and inconvenience caused was appropriate.

25. On 5 April 2020, Mr K emailed WTW and said:-

- He had identified errors in two retirement quotations while planning his retirement. This had undermined his confidence in WTW's ability to provide accurate information. So, he wanted his concerns investigated under the Scheme's Internal Dispute Resolution Procedure (**IDRP**).
- It would not be possible to provide evidence of having incurred a financial loss resulting from WTW's errors.

26. On 6 April 2020, Mr K's benefits from the Scheme went into payment, backdated to 28 February 2020.

27. On 28 April 2020, the Trustee received Mr K's complaint under stage one of the IDRP. In summary he said:-

- The difference between the benefits stated in the 2019 Quotation and the 2020 Quotation resulted in a PCLS reduction of over £21,000 and a pension that was around £3,200 a year lower.
- He had relied on the 2019 Quotation in deciding to give his son £10,000 and promised his daughter the same sum, although only £5,000 of this had been paid to her due to a delay in WTW processing his retirement claim.
- It was difficult to estimate the financial loss in full but he had been earning a salary of around £100,000 a year and was an active member of the Transport Scheme when he retired. However, he would only like the benefits set out in the 2019 Quotation to be honoured as redress for this financial loss.

28. On 7 August 2020, the Trustee wrote to Mr K asking him to provide additional evidence in support of his complaint, including:-

- A copy of any bank statements showing the payments to his son and daughter and clarification as to whether they could repay those sums.
- Clarification regarding the reason for his decision to retire in 2016 and copies of any correspondence exchanged with the Employer at that time.
- Additional information on other sources of income that support his retirement, including the stakeholder pension with Friends Life referred to in his letter dated 3 March 2020.

- Any other financial loss he had suffered as a result of relying on the incorrect retirement quotations.
29. On 13 August 2020, Mr K wrote to the Trustee and reiterated the reasons for his early retirement as set out in the letter of 3 March 2020. In summary Mr K also said:-
- He had no other sources of income, having used all the benefits from the stakeholder pension with Friends Life between 2017 and 2020.
 - Details regarding his financial loss were provided in the letter of 28 April 2020. He delayed retirement at age 58 in order to reduce the actuarial reduction applied by the Scheme when claiming his pension early.
30. Mr K also attached documents to the letter including:-
- An early retirement quotation from the Transport Scheme setting out his benefits, including a PCLS of £30,808.21 plus an annual pension of £6,646.68 for early retirement in July 2021.
 - A statement of contributions from Friends Life confirming a fund value of £99,859.25 on 30 December 2016.
 - Bank statements showing a £10,000 payment to his son on 30 September 2019 and a further £5,000 paid to his daughter on 31 January 2020.
31. On 11 September 2020, the Trustee wrote to Mr K and said that he should provide further evidence that he had suffered a financial loss, including:-
- Written confirmation from the Employer as to the circumstances surrounding his retirement, such as the date he had left and whether this was through voluntary redundancy.
 - Details regarding his financial circumstances in 2016, including the value of any savings, investments, and any other income sources such as other pensions.
 - Any documents showing his reliance on the incorrect retirement quotations in making financial commitments or causing additional expenditure at the time of his retirement.
32. On 18 September 2020, Mr K emailed the Trustee and said:-
- Bank Statements had previously been provided as evidence of the payments made to his children, and not to show his financial circumstances. At the time of retiring in 2016, he had total savings of only around £1,000 and no other sources of income.
 - The financial loss he had claimed was in relation to the reduction in benefits set out in the 2020 Quotation, when compared to the earlier quotations he had received, and the payments made to his children based on those figures. Accurate retirement quotations were required to establish whether or not to retire.

- The Trustee had a responsibility to pay benefits in accordance with the Scheme Rules. However, the Trustee must also take sufficient care to ensure that incorrect information was not provided repeatedly. He had questioned incorrect retirement quotations on several occasions.

33. Mr K also attached documents to the email including:-

- A letter from the Employer dated 16 September 2020, confirming that he had retired voluntarily on 31 December 2016.
- Copies of correspondence that he had submitted to the Employer in preparation for his retirement.
- A statement from Friends Life confirming that his stakeholder pension fund value was £0.08 on 9 October 2019.

34. On 26 October 2020, the Trustee wrote to Mr K and said:-

- WTW had sent him several incorrect quotations between 2015 and 2019, including the 2019 Quotation. This had resulted from an error in the calculation basis that was not identified until the 2020 Quotation was being processed. However, the Trustee could only pay benefits in accordance with the Scheme Rules.
- WTW did not respond to his enquiry of 20 November 2019 until 24 February 2020. There was a further delay of nearly a month in responding to his complaint of 3 March 2020 until 2 April 2020. Details of the Scheme's IDRPs were also not provided until 22 April 2020. The service provided by WTW in these instances had been below the expected standard.
- Mr K had expressed a wish to invoke stage one of the IDRPs in the email to WTW dated 5 April 2020, but the complaint was only passed to the Trustee on 28 April 2020. He was then provided with the opportunity to submit evidence in support of his claim for financial loss. This had caused a delay that was longer than would normally be expected in responding.
- At the time of his retirement, he had received the 2015 Quotation and the 2016 Quotation, both of which were overstated. He had subsequently received further misinformation regarding his benefit entitlements, including the 2019 Quotation which set out potential benefits including a PCLS of £152,323.64 and an annual pension of £22,848.55.
- His actual benefit entitlements calculated correctly in line with the Scheme Rules, when he retired in February 2020, were a PCLS of £131,125.63 and a pension of £19,668.94 a year. In the circumstances of this case, there was insufficient evidence to conclude that the difference of approximately £21,000 in PCLS and £3,000 a year in pension would have prompted him to delay his retirement in 2016.

- He had limited savings when he retired and subsequently exhausted the funds in his stakeholder pension up to the point that the benefits from the Scheme went into payment. However, he had provided no evidence that the previously mentioned sum of £3,000 a year was significant in his retirement plans because of any commitment to regular expenditure that would have meant this funding was necessary for him to be able to retire.
- He had also received a PCLS of £131,125.63 from the Scheme to increase his savings. Further benefits from the Transport Scheme, including a PCLS of approximately £30,808.21 and an annual pension of around £6,646.88, would also enhance his income. Given this, it was likely that he would have made the payments totalling £15,000 to his children, even if the 2019 Quotation had been correct.
- He had suffered from “serious” health issues approaching his retirement in 2016. So, it was reasonable to assume that this was a significant factor in his decision to retire. Due to this point and his financial position, it was likely that he would have retired in 2016, even if the 2015 Quotation and 2016 Quotation had been correct. So, the evidence did not support his claim of financial loss due to relying on the misinformation provided in those documents.
- An award of £2,000 in recognition of the distress and inconvenience caused was appropriate.

35. On 2 November 2020, Mr K appealed under stage two of the IDRPs and said:-

- The ill health he suffered approaching retirement in 2016 was an acute condition, but not ongoing. It merely prompted him to assess the feasibility of early retirement. So, the retirement quotations subsequently provided by WTW were significant in his financial planning.
- As a consequence of the misinformation provided by WTW his retirement income was reduced below the level he had expected, while his expenditure including that required for bills and mortgage payments, continued. So, he needed to seek employment and mitigate the financial loss.
- During some telephone conversations with WTW between November 2019 and February 2020, he was told on several occasions that he was not the only member to have received incorrect retirement quotations. It was unclear how many of the other affected members were receiving benefits that were not in accordance with the Scheme Rules.

36. On 15 January 2021, the Trustee wrote to Mr K in response and reiterated the information previously provided in the letter dated 26 October 2020. It also said:-

- WTW was responsible for the day-to-day administration of the Scheme, while the Trustee was responsible overall for administration of the Scheme. The incorrect

retirement quotations were provided over a lengthy period as a result of an error in a spreadsheet prepared by WTW.

- However, his benefits could only be paid in accordance with the Scheme Rules, especially as he had provided insufficient evidence of incurring a financial loss. The £2,000 award previously offered was appropriate recognition of the distress and inconvenience he had suffered.

Mr K's position

37. When he was assessing the feasibility of early retirement in 2015, the net income he required for a comfortable lifestyle was around £40,000 a year.
38. He did not seek financial advice regarding his financial planning before taking early retirement from the Transport Scheme. However, in 2020 he did create a spreadsheet showing the post-retirement income that he had relied on based on the overstated quotations received between 2015 and 2019.
39. Those overstated benefits were required so that he can avoid future financial hardship. However, he was currently working on a part-time basis to mitigate the reduced PCLS and pension entitlement from the Scheme.
40. WTW was, in any case, at fault for providing incorrect benefit details. This misinformation has resulted in him having to continue working after his planned retirement date.

The Trustee's position

41. The incorrect retirement quotations sent to Mr K between 2015 and 2019 did not result from incorrect guidance provided to WTW by the Trustee or a misinterpretation of the Scheme Rules by WTW.
42. The calculations for the 2020 Quotation were completed by WTW's Administration Team then subsequently reviewed and approved by the Actuary.
43. The £2,000 award offered to Mr K was not accepted but the offer remained open to him.

Adjudicator's Opinion

44. Mr K'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:-
 - The Trustee had acknowledged that WTW provided several incorrect retirement quotations to Mr K between 2015 and 2019, including the 2019 Quotation. These errors were not identified until WTW was calculating the 2020 Quotation. In the Adjudicator's opinion, the initial misinformation provided to Mr K amounted to maladministration by WTW on behalf of the Trustee.

- The Trustee is required to pay benefits in accordance with the Scheme Rules. In the Adjudicator's opinion, it was not reasonable for Mr K to have relied on the retirement quotations he received between 2015 and 2019, including the 2019 Quotation. Each retirement quotation included a disclaimer which had made it clear that any incorrect figures quoted did not convey entitlement to those sums. His actual benefits would be calculated based on the Scheme Rules at the time they were due to be paid.
- In the Adjudicator's view, the figures set out in the incorrect retirement quotations were not guaranteed. Even if Mr K had been able to demonstrate that his reliance on those retirement quotations was reasonable, this would not materially change the outcome in the circumstances.
- Mr K had provided no evidence of any expenditure or financial commitments that would have precluded him from making the payments to his son and daughter, totalling £15,000. That sum was minimal when compared to the correct PCLS of £131,125.63 and pension of £6,646.88 a year that he eventually claimed in 2020. So, it was not possible to conclude with any certainty that Mr K would not have made the payments totalling £15,000 to his son and daughter if the 2019 Quotation had been correct.
- Mr K had made no claim with regard to lost earnings, despite the fact that his salary was around £100,000 a year when he retired from his role with the Employer in December 2016. In the Adjudicator's opinion, the difference in figures between the 2019 Quotation and the 2020 Quotation was also significantly less than the potential salary that Mr K could, hypothetically, have earned over a year between December 2016 and December 2017. So, on the balance of probabilities, it was unlikely that Mr K would have made any other decision than to retire at that time, even if the 2015 Quotation had been correct.
- Mr K had contacted WTW on two occasions, in March 2015 and August 2016, to say that he had received retirement quotations based on an incorrect DOL. However, on each occasion he had subsequently received revised figures. Firstly, in the September 2015 Quotation, which was higher than the March 2015 Quotation, and then in the revised August 2016 Quotation which was lower than the August 2016 Quotation. Mr K had subsequently received the 2019 Quotation, which was overstated. So, the Adjudicator did not agree with Mr K's assertion that 'the figures provided were consistent.
- Since the incorrect figures provided to Mr K were always subject to review at retirement, he was also never actually entitled to the overstated benefits that were set out in the 2019 Quotation. So, in the Adjudicator's opinion, Mr K had not incurred an actual financial loss due to the reduced figures confirmed in the 2020 Quotation. That quotation was calculated correctly and in accordance with the Scheme Rules. Rather, Mr K had suffered a loss of expectation when WTW confirmed that the 2019 Quotation had been overstated.

- Mr K had experienced lengthy delays while awaiting a response to his enquiries on two occasions. Firstly, following his enquiry of 16 March 2015, Mr K did not receive the September 2015 Quotation for almost six months. Then it took until 28 February 2020 for WTW to respond to Mr K's enquiry of 20 November 2019. In the Adjudicator's opinion, these instances of poor service amounted to further maladministration by WTW on behalf of the Trustee, in addition to that previously identified. These issues would have caused Mr K severe distress and inconvenience.
- An award of £2,000 was in keeping with the Ombudsman's guidance for non-financial injustice of this kind. So, in the Adjudicator's view, the Trustee's offer of £2,000 to Mr K was sufficient recognition of the distress and inconvenience he had suffered.

45. The Trustee accepted the Adjudicator's Opinion, Mr K did not, and the complaint was passed to me to consider. I agree with the Adjudicator's Opinion and note the additional points raised by Mr K.

Mr K's additional comments

46. Having identified the reduction in the value of his benefits in February 2020, WTW said it would liaise with the Actuary and the Trustee to secure a "favourable outcome" for him. This implied that the miscalculation may be subject to interpretation. WTW subsequently provided an explanation, but it remains unclear how the error occurred.
47. The revised retirement quotations he received following the March 2015 Quotation and the 2016 Quotation were also incorrect. It is unreasonable for the Trustee to repeatedly rely on the disclaimer in his retirement quotations covering a period of over five years.
48. The figures in these retirement quotations moved in the direction he had expected, due to changes in the DOL and the early retirement factor. On that basis, it would not have been clear that the quoted figures were incorrect. So, he reasonably relied on the information received in making financial decisions.
49. He suffered ill health in 2014, and subsequently retired under the Transport Scheme on 31 December 2016, based on the misinformation. Had the figures quoted been correct, he would have delayed his retirement from the Transport Scheme.
50. Having made that decision, he lost a year's salary and an additional year of pension entitlement. His decision to retire under the Transport Scheme was also made three years before he received further retirement quotations in 2019 and 2020. So, those quotations are irrelevant when considering his retirement under the Transport Scheme in December 2016. He sought clarification regarding his retirement benefits under the Scheme during 2015 and 2016.
51. The total sum of £15,000 paid to his son and daughter was significant due to the fact that the PCLS paid to him in February 2020 was around £20,000 lower than that

quoted in the 2019 Quotation. However, he has also received a pension of £19,668.94 a year from February 2020.

52. He originally created a spreadsheet in 2015, showing his financial commitments, and that his savings would be used by the time he reaches the state pension age. This would result in him then having no funds to cover emergencies. However, he has been unable to obtain the spreadsheet created in 2015.

Ombudsman's decision

53. Mr K submits that WTW said it would liaise with the Actuary and the Trustee to secure a "favourable outcome" for him, having identified a reduction in the value of his benefit entitlements in February 2020.
54. I note that WTW's email of 11 February 2020 confirmed that following initial calculations in January 2020, a reduction from the figures previously quoted in the 2019 Quotation had been found. WTW prudently referred the matter to the Actuary and the Trustee for review, before confirming Mr K's correct benefit entitlements under the Scheme Rules in the 2020 Quotation. I find that the Trustee complied with its responsibility to pay Mr K's benefits in accordance with the Scheme Rules once the correct figures in the 2020 Quotation were approved by the Actuary.
55. The Trustee has also confirmed that there had been no previous misinterpretation of the Scheme Rules by WTW in calculating Mr K's benefit entitlements. The overstated benefits had resulted from an error in the calculation basis that had not been identified until the 2020 Quotation was being processed. I find that this is sufficient explanation of the error.
56. The disclaimer in the retirement quotations Mr K had previously received between 2015 and 2019 was valid since it confirmed his actual benefits would be calculated at the time they were due to be paid, based on the Scheme Rules. Moreover, these retirement quotations cannot be described as "consistent" since the quoted figures fluctuated, and did not move in one direction. So, I find that it was not prudent for Mr K to rely on the retirement quotations he received between 2015 and 2019 in deciding to retire from the Transport Scheme in 2016, or make payments totalling £15,000 to his son and daughter, particularly in light of the disclaimers included in the correspondence.
57. Mr K contends that he lost a year's salary, as he would have delayed his retirement from the Scheme for a year instead of retiring on 31 December 2016, had he not received misinformation from WTW on his benefit entitlements up to that point. I consider that it is with the benefit of hindsight, having received the Adjudicator's opinion, that Mr K now makes this claim in support of his complaint. He had previously claimed a loss only in respect of the difference between the 2019 Quotation and the 2020 Quotation.

58. I am not persuaded by Mr K's claim that he would have delayed his retirement by a year in December 2016 if he had received correct retirement quotations before making that decision. In my view the difference in the figures does not in itself warrant the loss of a salary of £100,000 a year. Further, Mr K would have been aware that the retirement quotations, that he claims to have relied on, were not guaranteed. So, I find that there is insufficient evidence that Mr K would have made any other decision than to retire in December 2016, even if he had not received the misinformation.
59. However, the incorrect retirement quotations that WTW sent to Mr K between 2015 and 2019 do amount to maladministration on behalf of the Trustee. However, Mr K has not incurred a financial loss since his correct benefits under the Scheme Rules have been in payment since February 2020.
60. Rather, Mr K suffered a loss of expectation when WTW eventually confirmed his correct benefit entitlements. There were also lengthy delays before WTW responded to his enquiries of 16 March 2015 and 20 November 2019. I find the Trustee's award of £2,000 to Mr K is appropriate recognition of the resulting serious distress and inconvenience he suffered. I would not award more. Mr K should contact the Trustee if he would now like to accept the £2,000 award.
61. I do not uphold Mr K's complaint.

Dominic Harris

Pensions Ombudsman

28 March 2024