

Ombudsman's Determination

Applicant	Mr L
Scheme	The Pearson Pension Plan (the Plan)
Respondent	Pearson Pension Trustee Limited (the Trustee)

Outcome

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

Complaint summary

2. Mr L's complaint concerned the Trustee's failure to fulfil its duty to provide accurate information to him to allow him to plan his retirement. Mr L considers the Trustee's handling of his complaint was significantly below the level he might reasonably expect.

Background information, including submissions from the parties

3. In October 1975, Mr L's employer enrolled him into the Plan. It had an Extel Upper Tier section and an Extel Lower Tier section. The contribution rate for the Extel Upper Tier section was 6% of gross salary and for the Extel Lower Tier section it was 3.5% of gross salary. The accrual rate was 1/60th for the Extel Upper Tier section and 1/100th for the Extel Lower Tier section.
4. Mr L was a member of the Extel Upper Tier section of the Plan from October 1975 to April 1978.
5. Mr L was then a member of the of the Extel Lower Tier section of the Plan from April 1978 to September 1984.
6. In 1984, Mr L left his employment with The Pearson Group (**the Employer**) and he became a deferred member of the Plan.
7. In December 2010, the Plan's Administration Team (**the Administration Team**) sent Mr L a pension illustration of the available options open to Mr L if he were to retire on 25 October 2019. As relevant, the illustration stated:

"Option 1 - Full pension

A pension of £16,205.88 a year payable from 25 October 2019.

Option 2 - Maximum tax-free cash with a reduced pension

A maximum tax-free cash sum of £47,139.90 plus a reduced pension of £12,977.16 per year payable with effect from 25 October 2019.

...

Option 3 - Alternative cash option

If you would like to consider taking a lower cash sum....will be happy to provide a revised pension illustration.

This is an illustration based on the current Plan rules, actuarial guidance and HM Revenue & Customs' practice. It is not a certificate of entitlement. We cannot accept responsibility for any changes which may affect the details shown."

8. On 1 October 2012, the Administration Team sent Mr L a pension illustration that set out the same options open to Mr L if he were to retire on 25 October 2019. It also contained the same caveat:

"This is an illustration based on the current Plan rules, actuarial guidance and HM Revenue & Customs' practice. It is not a certificate of entitlement. We cannot accept responsibility for any changes which may affect the details shown."

9. In February 2017, the Administration Team sent an early retirement pension illustration to Mr L. It stated the following options were available to Mr L on 25 October 2017. As relevant the illustration stated:

"Option 1- Full Pension

A pension of £13,264.92 a year payable with effect from 25 October 2017.

Option 2 - Maximum tax-free cash with a reduced pension

A maximum tax-free cash sum of £67,678.80 plus a reduced pension of £10,151.82 a year payable with effect from 25 October 2017.

...

Option 3 - Alternative cash option

If you would like to consider taking a lower cash sum....I'll be happy to provide a revised Pension Illustration and Pension Option form.

Option 4 -Transfer of Plan Benefits

You could transfer the value of your Plan benefits to another registered pension arrangement. If the transfer is a Defined Contribution arrangement

and the transfer value is above £30,000, we will need to receive confirmation that you have received appropriate independent advice from an authorised financial adviser. If you choose this option, we will send you a transfer statement.

This is an illustration based on the current Plan rules, actuarial guidance and HM Revenue & Customs practice. It is not a certificate of entitlement. We cannot accept responsibility for any changes that may affect the information provided, we will contact you.”

10. In March 2019, Mr L requested a pension illustration from the Administration Team showing his expected pension benefits at his normal retirement age on 25 October 2019.
11. On 26 March 2019, the Administration Team sent a pension illustration to Mr L. The statement showed that Mr L's full annual pension at his 2019 normal retirement date would be £11,108.52. The Administration Team informed Mr L of the following:-
 - When it produced a pension illustration at normal retirement age, it reviewed and verified the revaluation applied to a deferred pension.
 - In Mr L's case, the revaluation applied to his earlier statements had incorrectly applied an extra increase to one element of his pension. This led to the Plan's computer system inflating Mr L's overall pension figure.
 - The Administration Team had corrected the error and it had verified that the enclosed statement was accurate. Mr L should note that the previous statements had been an estimate only and the Plan had not guaranteed the figures shown. It apologised for the errors and inconvenience caused to Mr L.
12. In April 2019, the Administration Team sent Mr L a pension illustration that incorrectly showed that his full annual pension at his 2019 normal retirement date would be £15,960.12.
13. On 17 February 2021, following a telephone conversation with Mr L, the Administration Team emailed Mr L a link to its website to enable him to make a complaint under the Plan's Internal Dispute Resolution Procedure (**IDRP**).
14. On 19 February 2021, Mr L submitted a formal complaint to the Trustee under its IDRP. Mr L complained that:
 - The Administration Team had incorrectly told him that his full annual pension benefit would be in excess of £16,000.
 - However, shortly before his normal retirement age in 2019, the Administration Team then told him it had made errors over a period of time that meant his full annual pension benefit would be £11,108.52.

- Mr L complained that he had made his retirement plans based on the information the Administration Team had given him.
15. In March 2021, Mr L complained to the Administration Team that its response to his complaint merely repeated its previous responses. Mr L reiterated that he wanted the Trustee to submit a complaint under the Plan's IDRPs.
16. On 16 March 2021, the Administration Team wrote to Mr L. It said it was sorry that Mr L did not feel that it had fully addressed his complaint and it understood that the incorrect calculations previously issued had caused him distress. The Administration Team appreciated the correct level of benefit payable to Mr L was not what he had expected, however, the Trustee of the Plan was only able to pay him the benefit that he was entitled to under the Plan rules. It again gave details of how Mr L could pursue a complaint under the Plan's IDRPs. Enclosed with the letter was a current estimate of benefits for Mr L which showed his available options. As relevant, the illustration stated:

"Option 1 - full pension

A pension of £12,471.09 a year payable with effect from 25 March 2021 and no tax-free cash sum.

Option 2 - maximum tax-free cash with a reduced pension

A maximum tax-free cash sum of £61,870.91 plus a reduced pension of £9,280.64 a year payable from 25 March 2021.

...

Option 3 - transfer benefits from the Plan

Transfer to another arrangement.

This is an illustration based on the current Plan rules, actuarial guidance and HM Revenue & Customs practice. It is not a certificate of entitlement. We cannot accept responsibility for any changes that may affect the information provided, we will contact you."

17. On 30 April 2021, the Administration Team spoke to Mr L on the telephone. During the telephone conversation, it confirmed to Mr L that it had wrongly assumed that Mr L had always been a member of the Excel Upper Tier section of the Plan. This caused the error in Mr L's benefit statements. It was then determined that Mr L had changed to the Excel Lower Tier during his pensionable service. The Administration Team noted that during the telephone conversation, Mr L said he did recall moving to the Excel Lower Tier section of the Plan.
18. On 4 May 2021, the Trustee sent its response to Mr L's complaint under its IDRPs. It said in summary:-

- It had reviewed the pension illustrations sent to Mr L. The October 2012 and February 2017 retirement illustrations had overstated the benefits payable to Mr L.
 - In March 2019, the Administration Team noticed the error when the Plan's computer system produced another illustration. It corrected Mr L's calculation and the Administration Team put an explanatory note into his revised illustration.
 - The computer system overstated Mr L's illustrations because the calculation used to determine Mr L's benefits did not recognise that Mr L had switched from the Excel Upper Tier to the Excel Lower Tier section of the Plan during his pensionable service. Instead, the calculation had wrongly assumed that Mr L had always been a member of the Plan's Excel Upper Tier.
 - It recognised that after the Administration Team corrected Mr L's illustration the error re-occurred, and it sent him another illustration overstating his benefits.
 - The Trustee was sympathetic to Mr L's circumstances. It acknowledged the error had caused distress to Mr L which the Administration Team had compounded by allowing error to happen again after the correction.
 - The Trustee was only able to pay benefits in accordance with the Plan's Rules, but it was able to offer £1,500 compensation to Mr L for the administration error and the distress he suffered because of the incorrect illustrations.
19. On 11 May 2021, Mr L emailed the Administration Team to complain about how the Trustee had dealt with his complaint. Mr L made the following additional points:-
- He had received a derisory offer 11 weeks after he made his complaint, on 19 February 2021, with little explanation as to how the offer figure had been determined.
 - The IDRPs complaint response seemed to trivialise the error on his pension, which its checking procedure had not spotted for a long period of time.
 - He questioned whether the Administration Team and/or the Trustee was responsible for a major regulatory breach of its duty of care to Plan members. He said that he was considering complaining to The Pensions Regulator (**TPR**).
20. On the same day, the Administration Team replied to Mr L:-
- It had not received Mr L's complaint letter, dated 19 February 2021, until 3 March 2021, which it then acknowledged on 23 March 2021.
 - It apologised that it did not initially treat Mr L's complaint as an IDRPs complaint, but the Trustee did send Mr L its response within eight weeks.
 - The Trustee had asked it to telephone Mr L to clarify his recollections as to why he had moved from the Upper Extel section of the Plan to the Lower Extel section of

the Plan. In addition, the Trustee wanted it to inform Mr L that the incorrect pension calculations had occurred because the pension illustration computer system had wrongly assumed that he had been in the Upper Extel section throughout all his pensionable service. It and Mr L had discussed these points during the telephone call on 30 April 2021. It then reported this information to the Trustee prior to the Trustee sending the IDRPs complaint response to Mr L.

21. On 12 May 2021, Mr L emailed the Administration Team. He said he had submitted his complaint on 19 February 2021 to the address the Administration Team had given him and, 11 weeks later, he received the Trustee's IDRPs complaint response. Mr L repeated the points he had made in his 11 May 2021 email to the Administration Team.
22. Following the complaint being referred to The Pensions Ombudsman (**TPO**), Mr L and the Trustee made further submissions that have been summarised below.

Summary of Mr L's position:-

- His overall complaint was that the Trustee had failed in its duty to provide him with accurate pension estimates, had demonstrated multiple internal process failures, did not respond to his complaint in a timely manner and then made him a derisory offer of compensation.
- The Trustee had not kept accurate records. While the database records were correct, the information sent to him was incorrect.
- He accepted that the Trustee could not alter the Plan's Rules, but this did not excuse its failure to provide him with a reasonably accurate estimate of his pension.
- There was no information available to him between 2012 and March 2019 to indicate that the pension estimates were wrong.
- He wants a more realistic compensation figure from the Trustee.
- He was unable to mitigate his position and plans because the Administration Team had presented the lower pension to him as an unchangeable sum.
- The higher pension, as estimated between 2012 and 2017, would have been useful to offset medical costs he and his wife had incurred to look after their daughter. He used savings to cover these costs. He also had considered paying school fees for his granddaughter, but he had not done this for several reasons.

Summary of the Trustee's position:-

- In accordance with TPR's requirements, it is responsible for ensuring that a member's data is accurate.

- Mr L's record was accurate, but the automated retirement calculation run via the computer system was incorrectly adding additional revaluation to his deferred pension from the date of Mr L leaving his employment to his estimated retirement date.
- The Administration Team picked up the error following the calculations and it added a manual indicator to Mr L's record while it was updating the Plan's computer systems.
- Prior to picking up the issue, the Administration Team had run calculations for bulk mailing to members coming up to normal retirement age, which included an inflated pension figure. Unfortunately, the Administration Team sent this letter to Mr L which caused him further distress.
- It has a duty to ensure that the Plan paid members the correct level of benefit as set out in the Plan's Rules and in accordance with legislation.
- It had carefully considered Mr L's complaint and reviewed the information the Administration Team had provided to Mr L.
- The Administration Team had sent Mr L illustrations that the computer system had overstated; however, they were illustrations and not guaranteed as stated in the illustration correspondence. It had offered Mr L £1,500 in light of the distress caused to him.

Adjudicator's Opinion

23. Mr L'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 agreed that the illustrations issued in October 2012, February 2017 and April 2019 were overstated, so there was no dispute that a problem had occurred. Mr L argued that the Plan should pay him the incorrect pension benefits indicated over many years, or pay him compensation that represented a fair amount for the distress and inconvenience that he had suffered.
- The provision of incorrect information, in and of itself, did not create an entitlement to receive incorrect benefits. Under the Plan's Rules, the Plan could only pay him the pension benefits that he was entitled to receive. However, he may receive redress if he had sustained financial loss or non-financial injustice as a consequence of the Administration Team providing him with incorrect information. Essentially, Mr L's case was a complaint of negligent misstatement.
- If it could be shown that a clear and unequivocal representation had been made, the next question is whether the person to whom the representation had been made had relied on it to their detriment; that is, they have taken some action they

would not otherwise have done. It was also necessary for them to be able to show that it was reasonable for them to have relied on the representation.

- Mr L had complained about the large difference in the illustrations of his full pension and the revised amount: £16,205.88 versus £11,108.52. Mr L said that as the Administration Team only told him about its error estimating his pension benefit shortly before his normal retirement date, he was not able to mitigate his position and plans. Mr L said the 2012 to 2017 pension estimates would have been useful to him to pay his daughter's medical costs. However, he paid these costs from his savings. Mr L also said that he had considered paying school fees for his granddaughter, but he had not done this for several reasons.
- The Adjudicator appreciated that it was a very sensitive and personal matter, but, in his view, Mr L had not provided any evidence of financial decisions he had taken, or expenditure he made, based solely on his expectation that he would receive the (incorrect) higher pension amount. He had not said that he made any specific financial decisions, or commitments, that he would not have otherwise made if he had received correct pension estimates.
- Both the Administration Team and the Trustee had apologised to Mr L for the incorrect pension illustrations that the Administration Team provided to him. The Trustee offered Mr L £1,500 compensation for the administration errors and distress Mr L suffered because of the incorrect pension illustrations.
- The Adjudicator appreciated Mr L's disappointment that his pension was much lower than the sum he had expected the Plan to pay him. However, the Adjudicator was satisfied that the pension illustrations sent to Mr L between 2012 to 2019 made it clear to him that they were non-guaranteed estimates. The illustrations contained clear warnings that they were not certificates of entitlement. Therefore, while errors occurred, the Plan did not provide any guarantees to him. There was no clear and unequivocal representation. In the Adjudicator's view, a claim for redress based on negligent misstatement was unlikely to succeed.
- Mr L was receiving the benefits that he was entitled to receive under the Plan's Rules. In the Adjudicator's view, Mr L was receiving his correct benefits, and he had suffered a loss of expectation and not an actual financial loss.
- The Pensions Ombudsman has provided guidance that awards for serious non-financial injustice ("distress and inconvenience") should start at £1,000. In the Adjudicator's opinion, the degree of non-financial injustice which Mr L suffered due to maladministration was serious because of the number of incorrect, over inflated pension illustrations sent to him between 2012 to 2019. The Administration Team exacerbated the situation because it sent Mr L another incorrect illustration after it had told Mr L of the correct benefit amount he would receive. In the Adjudicator's opinion, the complaint circumstances warranted an award of £1,500. Mr L could contact the Trustee if he wished to accept the offered sum.

24. Mr R did not accept the Adjudicator's Opinion and, in response, he made the following points: -

- He thought that asking people what decisions they would have made in the past, if they had known what they now knew, was unreasonable. The only thing that he could say with any certainty is that he would have transferred his pension pot to a SIPP if he had known that his pension was going to be £11,808.52 rather than £16,205.88. However, that option has become all but impossible in recent years because of the changes in regulatory attitudes to DB pension transfers.
- There appeared to have been a fundamental misunderstanding of his complaint. He had no recollection of asking the Plan to pay him the incorrect pension benefit. His complaint was that the Plan had been shockingly incompetent and had mis-handled the complaint process. It had treated the incorrect illustrations as a data error and offered compensation for what saw as a minor fault on their part.
- The Opinion did not put sufficient weight upon the Plan's failure to address his complaint in a timely manner, to base its illustrations on HMRC guidance-i.e. not on wrong information and the distress and stress caused by its incorrect illustration. The Plan had not acknowledged that this was a serious matter.

Ombudsman's decision

25. Mr L's primary complaint is about negligent misstatement. The Trustee acknowledged and agreed that the pension illustrations provided to him in October 2012, February 2017 and April 2019 over-stated the pension benefits payable to him. So, clear and unequivocal mis-representations were made to him during that time period. This amounts to clear maladministration. To determine if Mr L has suffered a financial loss as a result of the incorrect information provided to him, I have considered the question of whether Mr L had taken actions that he otherwise would not have done; had he made irreversible decisions or spent money.
26. I find that Mr L has not supplied any evidence to show that he had made any specific decisions or expenditure based on the higher pension figure. I considered the actions that Mr L had actually taken after the Administration Team provided pension illustrations to him between 2012 and 2019 when making this finding. What Mr L might have done if he had known his correct pension amount between October 2012 and April 2019 is less relevant.
27. I recognise that Mr L has said that the only thing he can say with certainty is that had he known that his pension was going to be £11,808.52 rather than £16,205.88, he would have transferred his Plan pot to a SIPP. It is (and was) possible for Mr L to have made such a transfer provided he obtained financial advice. However, I have not been presented with any evidence that Mr L was planning to transfer his pension and refrained from doing so due to receiving the higher pension figure. I do not find that he has suffered financial loss as a result of the incorrect information given.

28. The Plan can only pay Mr L the benefits to which he is entitled to under the Plan Rules. Mr L is now receiving his correct pension. While I appreciate his disappointment at his pension being lower than expected, Mr L has suffered a loss of expectation only. He has not shown evidence that he made any financial decisions based on the incorrect information nor has he provided evidence of higher expenditure because of his expectation of the higher pension.
29. The Plan acknowledged in its 11 May 2021 letter to Mr E that it initially did not treat his complaint as an IDRPs complaint but I note that it sent its IDRPs response to him within eight weeks. TPR's guidance to Occupational Pension Schemes allows them up to four months to issue an IDRPs complaint response. It also repeatedly acknowledged that it had sent Mr E overstated pension illustrations. Unfortunately, errors do occur and I find no evidence aside of Mr E's opinion that the Plan did not follow HMRC guidance in respect of the pension illustrations. The Trustee offered Mr E £1,500 compensation for its errors and delayed complaint handling before he submitted his complaint to TPO.
30. Having reviewed the submissions made by Mr L, I am satisfied that the Adjudicator considered his complaint in full, including how he wanted to remedy the situation. I agree with the Adjudicator that the Trustee's apology and offer of £1,500 for non-financial injustice is sufficient remedy for the distress and inconvenience caused by its actions. In making this finding, I have considered the distress and inconvenience caused to Mr L because of the over inflated pension illustrations and the delays in complaint handling. Mr L should contact the Trustee if he now wishes to accept the offer made by it.
31. Therefore, I do not uphold Mr L's complaint.

Camilla Barry

Deputy Pensions Ombudsman

17 September 2025