

Ombudsman's Determination

Applicant	Mrs N
Scheme	Teachers' Pension Scheme (the Scheme)
Respondents	Teachers' Pensions

Outcome

1. I do not uphold Mrs N's complaint and no further action is required by Teachers' Pensions.
2. My reasons for reaching this decision are explained in more detail below.

Complaint summary

3. Mrs N's complaint is that Teachers' Pensions failed to complete her application to transfer her benefits to a scheme in New Zealand, by the deadline to do so in April 2015.
4. Mrs N's complaint is summarised as follows:
 - Teachers' Pensions provided her with incorrect information, in July 2014, that she would not be affected by "scheme reform in 2015".
 - She says that Teachers' Pensions should have informed her of the upcoming changes to legislation much earlier and that she would also have started the process earlier if Teachers' Pensions had not misled her. She would like compensation of £14,741 (the tax charge she will face if she transfers her benefits to New Zealand at age 60), or a transfer to a qualifying scheme in New Zealand.

Background information, including submissions from the parties

5. Mrs N is a deferred member of the Scheme.
6. In July 2014, Mrs N sent an email to Teachers' Pensions, asking for information regarding taking her benefits from the Scheme. Teachers' Pensions replied by email on 18 July 2014. It said that there was a range of options available at different ages starting from age 55, and that "the regulations are changing from April 2015".

7. On 19 July 2014, Mrs N asked for clarification, saying, “Does this mean that as I fall under the final salary scheme, that I am not able to receive a lump sum payment of my pension when the regulations change in April 2015”. Teachers’ Pensions replied by email on 31 July 2014. The email said, “I can confirm that your normal pension age in the Scheme is 60 and as a deferred member you are not affected by the scheme reform in 2015”. The email went on to explain the criteria for claiming her benefits before age 60.
8. On 29 September 2014 Mrs N wrote an email to Teachers Pensions telling them that she was permanently resident in New Zealand and that she was a member of KiwiSaver. In this email she asked ‘ can I transfer the value of teacher’s pension to my NZ Kiwisaver account?’
9. On 9 October 2014 Teachers Pensions replied ‘to transfer out of the TPS, we would require a formal request from the receiving scheme together with your authorisation and also the completed Transfer Out application form which may be downloaded from our website [linl]. We would also require confirmation of the **QROP** status of the receiving scheme.’
10. In February 2015, Mrs N started the process to transfer her benefits in the Scheme to a **QROPS** in New Zealand. The **QROPS** Mrs N chose is called Kiwi Wealth KiwiSaver (**Kiwi Wealth**).
11. **Kiwi Wealth** sent an email to Mrs N on 10 February 2015, informing her that it had asked Teachers’ Pensions to start the transfer. Teachers’ Pensions says that it received the request for the Guaranteed Statement of Entitlement (**GSE**) from **Kiwi Wealth** on 16 February 2015. It sent the **GSE** to **Kiwi Wealth** on 25 March 2015. The accompanying letter warned that regulations, commencing on 6 April 2015, would restrict transfers-out from the Scheme. It said that the completed Discharge Form 350 and any other required information must be received by 5 April 2015. The **GSE** was guaranteed until 24 June 2015.
12. **Kiwi Wealth** arranged for the forms to be completed by Mrs N and sent them back to Teachers’ Pensions in May 2015. Teachers Pensions wrote to **Kiwi Wealth** on 5 May 2015 regarding the transfer application. It said that the Discharge Form 350 (for the application) had to be received no later than 5 April 2015. As the form was not received until 1 May 2015, the transfer could not proceed.
13. Mrs N complained to Teachers’ Pensions on 25 May 2015. She said that it had not warned her about the deadline and the **GSE** was still within the guarantee period. She says that Teachers’ Pensions asked for further information from **Kiwi Wealth** in March 2015 which she believes it could have requested in February 2015. Mrs N says that she was led to believe that the transfer could go ahead as the new regulations would not apply to her. Moreover, she says that pension transfers to New Zealand must be completed within four years of the individual’s arrival in the country. That meant that she had until September 2015 to carry out the transfer, hence the timing of her application. She says that her husband was able to transfer two of his

funds to New Zealand by April 2015, even though he started the process after she did.

14. Teachers' Pensions replied substantively on 24 July 2015. It said that the covering letter issued with the **GSE** set out the deadline and the receiving scheme would also have been aware of it. It said that the application was received on 16 February 2015 and the **GSE** was produced about a month later, despite usually needing three to six months to produce.
15. Department for Education (**DfE**) reviewed Mrs N's complaint on 24 September 2015. It said that the Scheme's website contained information about the legislative changes. This information was also in the letter from Teachers' Pensions to Kiwi Wealth on 25 March 2015. It said that the **GSE** was not the transfer application. The application has to be made after receipt of the **GSE** and, in Mrs N's case, it was not received before the deadline on 5 April 2015. It further said that the Occupational Pension Schemes (Transfer Value) Regulations 1996 allow Teachers' Pensions up to three months from the date of application to provide the **GSE**. Teachers' Pensions provided the **GSE** within this timeframe. Amendments to the Pensions Schemes Act 1993 provided that, from 6 April 2015, transfers from the Scheme to schemes such as **Kiwi Wealth**, which offer flexible access to benefits, were prohibited. **Kiwi Wealth** was no longer recognised as a qualifying scheme and Teachers' Pensions could not allow the transfer.
16. Mrs N remains unhappy and has brought her complaint to us.

Adjudicator's Opinion

17. Mrs N's complaint was considered by one of our Adjudicators who concluded that no further action was required by Teachers' Pensions. The Adjudicator's findings are summarised briefly below:
 - Mrs N's initial email to Teachers' Pensions in July 2014 was about taking a lump sum payment from the Scheme, and not about transferring her benefits. The email reply from Teachers' Pensions to Mrs N did not say that she would not be affected by the change in legislation regarding transfers in April 2015. What Teachers' Pensions was referring to was the introduction of the career average scheme in April 2015.
 - The **GSE** is a guarantee of the transfer amount but it does not guarantee that the transfer will be completed. It is also not an application to transfer benefits. Teachers' pensions provided the **GSE** within the regulatory timescale.
 - Information regarding the legislative changes to transfers was available on the Teachers' Pensions website from January 2015. Teachers' Pensions provided the information when it became aware of the impending change.

18. Mrs N did not accept the Adjudicator's Opinion and the complaint was passed to me to consider. Mrs N provided her further comments which do not change the outcome. I agree with the Adjudicator's Opinion, summarised above, and I will therefore only respond to the key points made by Mrs N for completeness.

Ombudsman's decision

19. Mrs N says that she contacted Teachers' Pensions on 29 September 2014 to ask "Can I transfer the value of my teacher's pension to my NZ Kiwisaver account?" On 9 October 2014, Teachers' Pensions replied. It said that it would require a formal request from the receiving scheme, her authorisation and the completed Transfer Out application which could be downloaded from its website. It included a link to the website. Mrs N says that Teachers' Pensions should have taken this opportunity to inform her about the forthcoming changes which would impact her pension. She says that it failed to do so and it only informed her in March 2015, when it wrote to **Kiwi Wealth**. Teachers' Pensions says it was not in a position to alert Mrs N to the incoming restrictions when it replied in October 2014, because it only became aware of the proposal to change the law in January 2015.
20. In my view, Teachers' Pensions was not in a position, in October 2014, to alert Mrs N to the incoming restrictions. The change did not come about by a change to the scheme rules, but because of a change to the law on transfers. The scheme is not under an obligation to inform individual members of every change to the Pensions Schemes Act 1993. That would be placing an onerous burden on it. Accordingly, I find no fault with the fact that Teachers' Pensions only individually informed Mrs N of the deadline when it issued a **GSE**.
21. Mrs N says that because the 31 July email was not restricted in its terms she took it to mean that any changes in April 2015 would not impact her. In my view that is not a reasonable conclusion to draw. An enquiry about ability to access a lump sum is not the same thing as an enquiry about ability to obtain a transfer value from a DB scheme. The 31 July email can reasonably be relied upon as a reply to the question about access to a lump sum. Mrs N has produced no evidence from which I can conclude that it was reasonable for her to interpret it more broadly than that. She asked a specific question about transfer out in September 2014 and received a specific answer about that process in reply. She says that the Scheme should have cross checked with what they had previously told her and because of the 31 July email should have told her personally about the incoming transfer restriction as soon as they became aware of it. I cannot see a reason why Teachers Pension should necessarily have linked her enquiries together, and even if they had, that they should therefore have provided a different answer in October 2014. Consequently I find there was no misstatement by the scheme which they needed to correct when they became aware that the transfer rules were about to change.
22. By October 2014, Teachers' Pensions had provided Mrs N with the information she needed to commence a transfer application. Because she was focussed on the

September 2015 date which she understood to be significant in terms of New Zealand tax law, she did not take any steps to commence the transfer process until February 2015. Teachers Pensions processed the **GSE** promptly. As it turned out, the application to transfer was not received before the law changed, but there is no evidence that Teacher's Pensions obstructed the transfer process or failed in a duty to process the application in a timely way. Teachers' Pensions is not to blame for the fact that they did not receive the application to transfer by 6 April 2015. .

23. In conclusion, I do not find any evidence of maladministration by Teachers' Pensions in dealing with Mrs N's transfer application.
24. Therefore, I do not uphold Mrs N's complaint.

Karen Johnston

Deputy Pensions Ombudsman
18 August 2016