

Ombudsman's Determination

Applicant	Mr S
Scheme	NOW: Pensions
Respondents	NOW: Pensions JLT Benefit Solutions Limited ('JLT')

Outcome

1. Mr S' complaint against NOW: Pensions is partly upheld, but there is a part of the complaint I do not agree with. To put matters right (for the part that is upheld) NOW: Pensions should pay Mr S £500 in recognition of the distress and inconvenience caused to him and pay Mr S £34.40 for the administration fees and investment loss it has subsequently offered to pay him.
2. My reasons for reaching this decision are explained in more detail below.

Complaint summary

3. Mr S is unhappy with the incorrect and inconsistent valuation of his pension fund. It did not reflect his contributions and those of his employer, the combined total of which were in excess of £800. There was a failure to properly account for those contributions.

Background information, including submissions from the parties

4. There was a protracted exchange of correspondence between Mr S, NOW: Pensions and JLT. I will, therefore, only repeat the key events which I consider to be most relevant.
5. Mr S was initially employed on a temporary 18 month contract as a Project Manager and became a member of the Now: Pensions scheme. His position was made permanent at the end of the temporary contract on 26 February 2016. When his position was made permanent Mr S informed his employer he wanted to transfer his funds to a Self Invested Personal Pension (SIPP) with an alternative provider.
6. In March 2016, NOW: Pensions sent Mr S a pension benefits statement. The statement gave Mr S an estimate of his fund value as at 31 March 2015.

7. The statement calculated the combined employer and employee contributions to be £121.44. However, Mr S' payslip for April 2015, showed the combined employer and employee contributions to be higher, £205.80. Mr S questioned the figures with NOW: Pensions and asked it to expedite the transfer of his funds to his SIPP.
8. NOW: Pensions explained the reasons behind the discrepancy in the figures. NOW: Pensions said "we are aware that there are issues with up to date information presenting on our systems, however, I can assure you this is no fault of your employer, this is due to the data being transmitted between the payrolls systems and the pension system. We have, with the help of your employer identified this issue and are working to resolve this as soon as possible".
9. Mr S raised a formal complaint with NOW: Pensions by email on 2 April 2016. In summary, he complained of his disappointment and frustration that NOW: Pensions had given him an incorrect valuation of his pension fund. Further, he said the valuation was inconsistent with the contributions made in previous years, which totalled over £800. Mr S was unhappy with NOW: Pensions for not providing the named details of the person dealing with the matter.
10. On 11 April 2016, NOW: Pensions wrote to Mr S and informed him that since his employer had not updated the leaving date on his records, the transfer could not proceed. Now: Pensions also confirmed that the figure stated on the transfer quotation was not guaranteed and did not take into account the missing contributions.
11. Following this, Mr S contacted NOW: Pensions on several occasions. As he did not receive any acknowledgements or responses, he raised further complaints.
12. On 4 May 2016, NOW: Pensions informed Mr S that the total combined value of the employee and employer contributions amounted to £804.92. Mr S completed the necessary transfer form the next day and returned it to NOW: Pensions.
13. Mr S then contacted NOW: Pensions on 13 May 2016. He enquired about its timescales for processing the paperwork and completing the transfer and he also asked what steps it would take to ensure other members would not be financially disadvantaged as a result of the systems issues. NOW: Pensions did not respond to Mr S. The transfer was eventually finalised on 13 June 2016.
14. NOW: Pensions responded to Mr S on 28 July 2016. NOW: Pensions apologised for the distress and inconvenience caused by the issues, and offered Mr S £100 explaining:
 - the quality of service provided had fallen short of the level of service it would normally provide;
 - it was working with all parties to correct member contribution records;
 - recent initiatives had been put in place which have resulted in a significant improvement; and

- it acknowledged that the transfer value had reduced from £806.92 to around £770.52.
15. On 3 August 2016, Now: Pensions responded to Mr S under the first stage of the internal dispute resolution procedure (**IDRP**). In this response, NOW: Pensions:
- clarified that the transfer value was lower than his expectation because £20 had been deducted for administration charges and there was a further loss of £15 due to investment loss;
 - said the administration charges were in line with the terms and conditions of the arrangement;
 - confirmed that it topped up the value of the missing contributions from its own reserves to speed up the transfer process; and
 - issued a further apology to Mr S for the poor experience he had suffered, and in recognition of this, its original offer of £100 compensation was increased to £250.
16. Because Mr S was not satisfied with the responses, he asked, on more than one occasion, for the case to be progressed to the second stage of the IDRP. However, NOW: Pensions considered Mr S should bring his case directly to us, rather than through the second stage of the IDRP. In his complaint to us, Mr S remained of the view that the failure to keep proper records caused an excessive delay in transferring his pension to his SIPP.

Adjudicator's Opinion

17. Mr S' complaint was considered by one of our Adjudicators who concluded that no further action was required by NOW: Pensions. The Adjudicator found that JLT ought to pay Mr S £250 for the part it played in the poor administration of the Scheme and causing Mr S significant distress and inconvenience.
18. NOW: Pensions, did not accept the Adjudicator's Opinion and provided further comments.
- NOW: Pensions Ltd subcontract its pensions administration services to JLT. It accepts responsibility in respect of the administration services it had subcontracted.
 - The delay from March to April took place as a result of NOW: Pensions not receiving up to date information from Mr S' employer, or a correct record of his contributions.
 - The agreement NOW: Pensions has with employers explains it is the responsibility of the employer to give NOW: Pensions accurate data in relation to the employees.

- There was further delay in receiving paperwork from Mr S and the SIPP provider; it was eventually sent on 11 April 2016.
- Once the paperwork was received and the missing contributions confirmed, NOW: Pensions began disinvesting the funds which was completed in a timely manner.
- The process did not go smoothly, as the receiving scheme further delayed the transfer process and only acted when prompted by NOW: Pensions.
- It had attempted to expedite a resolution.
- If there is any investment loss as a result of the delay, it is likely to be minimal. It acknowledged that further charges may have been deducted which may have been unnecessary had the transfer taken place earlier. In light of this, NOW: Pensions offered Mr S £34.40 to cover the investment loss and the deducted administration charges.
- It maintained that its ex-gratia offer remained at £250, this represented the lack of service provided by NOW: Pensions, as well as errors made by its subcontractors.

19. Mr S also responded to the Adjudicator's Opinion and made the following comments.

- NOW: Pensions have made a new allegation, that it was Mr S' employer's fault for "delinquent record-keeping". However, in NOW: Pensions letter of 31 March 2016, it confirmed "we are aware that there are issues with up to date information presenting on our systems, however, I can assure you this is no fault of your employer..."
- The administration of pension schemes is the 'everyday job' of NOW: Pensions and JLT; and the transmission of data from his employer to NOW: Pensions and JLT's system is largely its responsibility.
- The issues associated with the system was not resolved in a timely fashion, and suspects it has not yet been resolved.
- His complaint is in relation to the unacceptable state of contributions records kept, with over 60% of his contributions not recorded by NOW: Pensions and JLT.
- The team leader he communicated with at NOW: Pensions ignored five of his requests to supply contact details of his superior.
- He was irritated that NOW: Pensions blamed him for the delay in signing the transfer document sent on 11 April 2016, when he did not receive an acceptable transfer valuation until 4 May 2016.

- NOW: Pensions' email of 4 May 2016, led him to believe his transfer value would be in excess of £800, but the sum transferred was around £770.
 - The receiving SIPP provider was not at fault for the delays which occurred after the transfer forms were signed in early May 2016, and the funds not reaching the provider until 13 June 2016. He had transferred other arrangements into his SIPP and this has usually been completed within 6 to 8 weeks.
 - His complaint is evidenced based whereas NOW: Pension's allegations are not.
 - He has incurred financial losses as well the inconvenience and distress caused by the maladministration.
 - Mr S has provided details concerning his financial loss suffered as a result of the delay in transferring his funds. Mr S says he would have bought a number of Fresnillo shares, which apparently have subsequently increased in value, causing him a loss of around £200. Mr S is willing to accept a notional offer of £100 towards this loss.
 - Because NOW: Pensions and JLT failed to maintain proper records, he does not believe it should charge him for administration fees.
20. Further information was requested from NOW: Pensions, in respect of the events that took place after 5 May 2016, the point at which Mr S completed and returned the necessary paperwork. NOW: Pensions confirmed that it contacted the receiving provider to enquire about the outstanding paperwork it needed in order to progress the transfer.
21. Each Wednesday NOW: Pensions run a weekly investment and disinvestment cycle. The 18 May 2016 was also a Wednesday, so therefore, the disinvestment of Mr S' funds took place the following Wednesday 25 May 2016. The disinvestment takes 10 working days to complete, which is inclusive of the necessary audit and the preparation of the payment. The transfer payment was released to the receiving scheme on 8 June 2016.
22. I have looked at the points raised by the parties, however, I do not consider they change the outcome. I agree with the Adjudicator's Opinion, summarised above, and I will therefore only respond to the key points made by Mr S and Now: Pensions, for completeness.

Ombudsman's decision

23. There is no dispute that NOW: Pensions and JLT collectively, failed to keep and maintain proper records of member and employer contributions. I find that equal fault

lies with NOW: Pensions and JLT, as providers of professional pension administration services; they ought to have held accurate records.

24. Where there was any risk of inaccuracy or error in collecting data from third parties, it should have taken reasonable steps to put the matter right and mitigate any loss or inconvenience suffered by members in a timely manner. NOW: Pensions admitted previously that the quality of service it provided fell short of the level it would normally provide. I find that the errors and poor service identified against NOW: Pensions and JLT, amount to maladministration.
25. Mr S suffered delays to his requested transfer a result of the maladministration that occurred. NOW: Pensions offered him £250 to compensate for the distress and inconvenience caused.
26. NOW: Pensions, in its response to the Adjudicator's Opinion, argued that Mr S' employer may be responsible for some of the delay that occurred, specifically between March and April 2016. I have considered Mr S' comment on this point and I agree with him. NOW: Pensions had previously said, in its written responses to Mr S, that the issues were not caused by the employer. There is no evidence to support the new claim being made by NOW: Pensions against the employer. Consequently, I do not find that the employer contributed to the delays that occurred.
27. NOW: Pensions say that Mr S partially contributed to the delay by not returning the signed transfer forms promptly. I do not agree. Given the inaccuracy of the transfer value, which did not include a significant amount of contributions, it is reasonable for Mr S not to have signed it. I do not find that Mr S' actions contributed to the delays that occurred. NOW: Pensions confirmed previously that there were issues with the transmission of data between the payroll systems and the pensions system. I find that it was these issues which caused the maladministration.
28. NOW: Pensions' position is that £250 is adequate compensation in respect of the poor service it provided as well as the errors made by JLT, its subcontractor. I do not agree. Given the circumstances of this case and the numerous opportunities NOW: Pensions and JLT had to treat Mr S with better care and attention, the level of distress and inconvenience suffered by Mr S cannot be said to be inconsequential. I consider £500 compensation is warranted.
29. NOW: Pensions agreed to pay Mr S £19.50 in respect of its administrative charges and £14.90 in respect of the lost investment growth. It had also explained that in its view, "the loss incurred due to the delay in transfer is likely to be minimal if evident at all..."
30. The Adjudicator recommended that NOW: Pensions ought to establish what Mr S' fund would have been worth had the contributions been invested earlier. I am unable to support this direction because there is insufficient information available to me to ascertain with certainty date when the transfer should have taken place.

31. Mr S has asked for a further £100 to compensate him for the loss he considers he has suffered, as a result of the delay in investing in Fresnillo shares. I have considered the timeline of events that took place. It has already been established that unnecessary delays occurred between Mr S' initial request on 26 February 2016, to transfer out of the NOW: Pensions scheme and 5 May 2016; however, I am of the view that adequate compensation has been offered for this period with the cancellation of administration fees and the payment of £14.90 in respect of loss of investment growth.
32. I have considered the points Mr S has raised concerning the period post 5 May 2016 but I do not find that NOW: Pensions could have completed its enquiries earlier and that it caused further unnecessary delay.
33. Mr S emailed the paperwork to NOW: Pensions on 5 May 2016, in order for the transfer to progress. NOW: Pensions was dependant on the receiving provider to complete and return its paperwork; this part of the process was outside of its control. I do not consider the actions or the time taken by NOW: Pensions to disinvest and process the transfer after 5 May 2016, to be unreasonable. Therefore, I do not agree with Mr S' request that he has suffered a financial loss post 5 May 2016 as a result of the actions of NOW: Pensions.
34. NOW: Pensions have requested that I hold it responsible in respect of any failings in this matter by JLT. It has stated it will make any payment awarded to Mr S. In light of this request, any direction I make will be legally binding and enforceable against NOW: Pensions alone.
35. Therefore, I partially uphold Mr S' complaint against NOW: Pensions.

Directions

36. Within 28 days of this Determination, NOW: Pensions must:
 - pay Mr S £500 to reflect the significant distress and inconvenience caused to him by the poor service and time taken to resolve the issues that have been identified; and
 - pay Mr S £34.40 in respect of the deducted administrative charges and potential investment loss.

Anthony Arter
Pensions Ombudsman

22 December 2016