

## Ombudsman's Determination

Applicant	Mrs N
Scheme	Medical Research Council Pension Scheme ( <b>the Scheme</b> )
Respondent	JLT Benefit Solutions Ltd ( <b>JLT</b> )

## Outcome

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

## Complaint summary

3. Mrs N is unhappy that JLT failed to provide her with a cash equivalent transfer value (**CETV**) prior to her retirement from the Scheme.

## Background information, including submissions from the parties

4. On 4 January 2016, Mrs N wrote to JLT requesting details of her benefits from the Scheme for retirement on her 55<sup>th</sup> birthday (2 June 2016). JLT provided this information, along with the required documents to claim her benefits, on 26 January 2016. This included a covering letter setting out what was in the retirement pack, as well as stating that transfers out of amounts greater than £30,000 require advice first from an authorised financial advisor.
5. Mrs N signed and returned the retirement forms (requesting an enhanced tax free cash lump sum and a reduced annual pension) to JLT on 24 February 2016. On 29 April 2016, JLT requested that Mrs N complete an additional form with her nominated bank account, which Mrs N signed and returned on 3 May 2016.
6. JLT wrote to Mrs N on 6 May 2016 setting out details of her tax free cash lump sum and informing her that this would be paid into her nominated bank account within five working days of her selected retirement date.
7. However, after submitting the last form to JLT, Mrs N was diagnosed with a serious illness and she sought independent financial advice. Mrs N says she telephoned JLT on 31 May 2016. JLT confirmed that it does not record telephone conversations, but a note of its system at 17:37 says "member would like a transfer value".

8. Mrs N also followed up this telephone call with an email that said:

“Further to your telephone conversation with my Financial Advisor ... I am writing to confirm that I would like to have all my options offered before my 55<sup>th</sup> birthday on 2 June. Whilst I may decide not to take a cash equivalent transfer value, I would at least like to consider the figures before my decision.”

9. On 6 June 2016, JLT paid Mrs N her tax free cash lump sum and her first pension payment was paid at the end of the month.

10. JLT responded to Mrs N's email on 16 June 2016:

“Please be advised that we are unable to provide a transfer value quotation as your retirement benefits have been processed. We received your completed retirement forms in February. The claim was processed and authorised for your retirement date of 2<sup>nd</sup> June 2016 and a cash lump sum payment was sent to your nominated bank account on 6<sup>th</sup> June 2016. Unfortunately, once we had received your enquiry concerning the possibility of a transfer quotation your retirement had already been processed and authorised to avoid any delay to you receiving your cash lump sum payment.”

11. Mrs N remained unhappy with this and complained to the Pensions Advisory Service (**TPAS**). To help to resolve the complaint, TPAS arranged for JLT to provide Mrs N with a CETV, even though she could not act on it. Mrs N then asked for her complaint to be considered under the Scheme's internal dispute resolution procedure (**IDRP**). The Trustees of the Scheme considered the complaint under Stage 2 of the IDRP and did not uphold it. In particular, it said:

“notwithstanding that you had confirmed that you wanted your benefits to come into payment on your 55<sup>th</sup> birthday, requiring the Trustees to arrange payment within 5 days and for pension payments to commence, you rang up the third party administrator 2 days before your 55<sup>th</sup> birthday to explore whether you could have a cash equivalent transfer value. Nothing was receiving [sic] in writing, no details of any change of personal circumstances were provided and no explicit request to defer receipt of your benefits was noted;”

12. The Trustees went on to conclude that the telephone call alone was not a sufficient basis upon which to stop the payment of her benefits and for the Trustee to ignore the previous written request to pay Mrs N's benefits. It also felt that if it had not made the payment to Mrs N, then it would have “been exposed to a material risk of criticism and potential claim from you for non-fulfilment of the trust law duties”.
13. However, Mrs N remained dissatisfied and made a complaint to this service.

## **Adjudicator's opinion**

14. Mrs N's complaint was considered by one of our Adjudicators who concluded that no further action was required by JLT. The Adjudicator's findings are summarised briefly below:-
- The email Mrs N sent to JLT on 31 May 2016 does not give a clear instruction to stop the payment of her benefits. While it might not have been too late to give this instruction and ask for a CETV, it was not reasonable for JLT to have provided this within two working days when such requests are complex and can take up to 20 working days to provide.
  - The Adjudicator felt that it was also reasonable for JLT to have continued to process and pay her benefits in accordance with her earlier instructions and a failure to do so could be deemed to have been maladministration. While JLT could have managed Mrs N's expectations earlier regarding the possibility of providing a CETV before her 55<sup>th</sup> birthday, this was not maladministration.
  - JLT is correct in stating that Mrs N cannot take advantage of the CETV she has now been provided with as the Pension Schemes Act 1993 (section 93) does not allow a transfer if a crystallisation event, that is a retirement, has occurred. Therefore, there is no maladministration in JLT refusing to allow Mrs N a transfer out of the Scheme.
15. Mrs N disagreed with the Adjudicator's opinion and her points, in summary, are:-
- It is her understanding that telephone calls are recorded, especially as her call was a "request/complaint".
  - Her letter of complaint to JLT, on 21 June 2016, reinforces that she made a verbal request to stop the payment of her benefits and this has not been disputed by JLT.
16. As Mrs N did not accept the Adjudicator's opinion, the complaint was passed to me to consider. Mrs N's further comments do not change the outcome. I agree with the Adjudicator's opinion and I will therefore only respond to the key points made by Mrs N for completeness.

## **Ombudsman's decision**

17. My role is to determine whether there has been maladministration that has caused Mrs N an injustice. I agree with the Adjudicator that there has been no maladministration in relation to the way in which JLT processed Mrs N's benefits or that Mrs N cannot now take advantage of a CETV.
18. Unfortunately, there is no record of the telephone conversation on 31 May 2016. It would therefore only be an assumption as to what was discussed during that call. It is not known if Mrs N made JLT aware of her illness, or whether she made explicit

instructions to stop the payment of her benefits. However, the Trustees concluded that she had not made JLT aware of her change in circumstances before her retirement date and Mrs N has not provided any evidence to the contrary. I can only make a decision based on the evidence before me, which does not support Mrs N's claim that she gave a verbal instruction to stop the payment of her benefits.

19. While JLT should, possibly, have thought more about why the member was making such a request two days before her selected retirement, and thus explained to Mrs N the improbability of providing that information before a crystallisation event, JLT had not received a precise written instruction from Mrs N to stop the payment of her benefits. As the administrators of the Scheme, JLT can only act on the instructions of Mrs N and, without a clear instruction to stop payment of the benefits, JLT was right to continue to act on the written instructions it had received.
20. Therefore, I do not uphold Mrs N's complaint.

**Anthony Arter**

Pensions Ombudsman  
18 December 2017