

Ombudsman's Determination

Applicant	Mr Y
Scheme	Leaffield Retirement Plan (the Plan)
Respondent	Fast Pensions Limited (Fast Pensions)

Outcome

1. Mr Y's complaint is upheld, and to put matters right Fast Pensions should contact Mr Y to clarify his right to access his pension funds and any penalties that apply, and pay him £1,500 to reflect the distress and inconvenience caused to him by Fast Pensions' maladministration. If Mr Y seeks to exercise a valid statutory right to a transfer value from the Plan to a named pension arrangement that is willing to accept it, Fast Pensions should pay the transfer value to that arrangement.
2. My reasons for reaching this decision are explained in more detail below.

Complaint summary

3. Mr Y complains that Fast Pensions has failed to respond to his enquiries about whether he can access his pension funds in the Plan under the new pension freedoms, or transfer his pension funds to another pension provider.

Background information, including submissions from the parties

4. Mr Y is a current member of the Plan. There is limited documentation available about the exact nature of the arrangement, but from Fast Pensions' website it appears that it was intended to be an occupational pension scheme.
5. Mr Y said that when he attained age 55 in 2016 he tried to contact Fast Pensions several times by phone and by using Fast Pensions' online form because he was interested in withdrawing cash from his pension funds in the Plan in accordance with the new pension freedoms that had been announced. Mr Y also said that when he did not receive any reply his daughter tried unsuccessfully to contact First Pensions by email.
6. Mr Y's concerns grew when Fast Pensions failed to send him an annual benefit statement that he was expecting, so he then contacted us.

7. In the circumstances we have accepted the complaint for investigation without a formal response from Fast Pensions. Our letter to Fast Pensions requesting its formal response to the complaint was sent to the postal address currently shown on its website, but was returned in the post.

Adjudicator's Opinion

8. Mr Y's complaint was considered by one of our Adjudicators, who concluded that further action was required by Fast Pensions. The Adjudicator's findings are summarised briefly below:-
 - Fast Pensions had failed to respond to queries raised by Mr Y. This constituted maladministration, which had caused Mr Y significant distress.
 - We had investigated and determined similar cases involving Fast Pensions and the Plan (for example, Mrs S, PO-11450). That determination is available on our website (www.pensions-ombudsman.org.uk). We upheld that complaint, and there was no significant difference in Mr Y's complaint which would warrant a different outcome here.
 - We had not seen a formal request from Mr Y to transfer from the Plan, but it appeared likely that in the circumstances he would wish to do so. He cannot be deprived of a statutory right to transfer under section 94 of the Pension Schemes Act 1993 (the **Act**).
 - To qualify as an application for the purpose of the six months' time limit in section 99 of the Act, such a request would need to require Fast Pensions to use the transfer value to acquire credits in an occupational or personal pension scheme, the trustees or managers of which are able and willing to accept payment. Should Mr Y make a valid request in this way, Fast Pensions will be obliged to deal with it in accordance with his statutory rights.
 - Fast Pensions should answer Mr Y's queries regarding the Plan and pay him £1,000 to reflect the significant distress and inconvenience that its maladministration had caused him.
9. The Adjudicator's Opinion was sent to Fast Pensions by post (returned to sender) and by email after it re-established contact with our office and Mr Y.
10. Fast Pensions did not tell us whether it accepted the Adjudicator's Opinion, but on 17 February 2017 it informed Mr Y of the current value of his pension fund (as at 31 May 2016) and the early exit penalty (£8,957.45) that would apply to the current transfer value (£61,214.57 gross).
11. On 21 February 2017 Fast Pensions told Mr Y that he could not access his pension funds in the Plan until age 65 unless the trustees of the Plan made an exception to that requirement; alternatively he could take a transfer to another pension arrangement that was willing to allow early access. Fast Pensions also said that his transfer value was smaller than the amount it had advised a few days previously: the

gross transfer value was £31,666.89; this would be subject to an early exit penalty of £4,633.78.

12. On 1 March 2017 Fast Pensions informed us that the suggested compensation of £1,000 would be paid to Mr Y on 23 March 2017.
13. However, Fast Pensions emailed Mr Y on 23 March 2017 to say that due to a change of the directorship of Fast Pensions and the new director's decision to transfer the Plan administration from Fast Pensions to a related company, FP Scheme Trustees, the compensation payment would be delayed, and there was now a target payment date of 30 April 2017.
14. Mr Y was concerned that this was a delaying tactic by Fast Pensions, so his complaint was passed to me to consider.

Ombudsman's decision

15. I agree with the Adjudicator's Opinion, summarised above, and as Fast Pensions has not responded properly to the complaint my decision will be based upon the information and documents provided by Mr Y.
16. I note that the Opinion sent to Fast Pensions' registered address in London was returned to sender, and that Fast Pensions has not provided an up-to-date correspondence address.
17. We have dealt with a number of other cases recently involving Fast Pensions, where there have been continued failures to respond to members' requests and transfer applications. Fast Pensions has also failed to communicate with this office.
18. Based on the evidence that we have, I agree that maladministration has been established, and therefore I uphold Mr Y's complaint. As indicated, this is one of a number of cases against Fast Pensions where similar maladministration has occurred, with no sign of service improvement or satisfactory resolution of members' concerns over the security of their pension funds.
19. I will increase the compensation payment that the Adjudicator had suggested should be paid by Fast Pensions to reflect the shoddy treatment that Mr Y has received from Fast Pensions, particularly in its recent communications. Mr Y was promised that compensation would be paid on 23 March 2017, and it was only on that day that Fast Pensions broke the news that, for reasons that are not exactly convincing, given the history of this matter, there would be a delay. Fast Pensions also gave Mr Y conflicting information recently about the amount of the transfer value that would be available to him.

Directions

20. I direct that Fast Pensions shall:-
21. Within 14 days of the date of this determination, contact Mr Y and clarify his right to access his pension funds and any penalties that apply; if Mr Y seeks to exercise his statutory right to transfer out of the Plan then, within 28 days of Mr Y requesting a transfer value to a named pension scheme that is willing to accept it, Fast Pensions shall pay the transfer value to that arrangement; and
22. Within 28 days of the date of this determination, pay Mr Y £1,500 to reflect the significant distress and inconvenience caused to him by its maladministration.

Anthony Arter

Pensions Ombudsman
28 March 2017