

Ombudsman's Determination

Applicant	Mr S
Scheme	Leafield Retirement Plan (the Plan)
Respondent	Fast Pensions Limited (Fast Pensions)

Outcome

1. Mr S's complaint is upheld, and to put matters right Fast Pensions should assist Mr S in exercising his statutory right to a transfer out if he so wishes, and answer his queries about the Plan. Fast Pensions should also pay Mr S £1,500, to reflect the significant distress and inconvenience caused to him by its maladministration.
2. My reasons for reaching this decision are explained in more detail below.

Complaint summary

3. Mr S complains that Fast Pensions has failed to implement his request to transfer out of the Plan, and failed to provide him with full information about the transfer terms when requested.

Background information, including submissions from the parties

4. Mr S is a current member of the Plan. A transfer payment of £58,058 was made to the Plan from Mr S's previous pension arrangement. There is limited documentation available about the exact nature of the Plan, but from Fast Pensions' website it appears that it was intended to be an occupational pension scheme.
5. On 17 March 2014 Fast Pensions responded to Mr S's request for a transfer value quotation and informed him that "an early exit penalty" (a deduction from the transfer value) would apply if the transfer out were made before 13 March 2019. Its letter also said:

"Please note that due to the risk of pension liberation and the increased number of checks that the scheme administrators will need to make prior to any transfer, that we expect transfers out of the scheme to take between 3-6 months to complete."

6. On 2 April 2015 Fast Pensions sent Mr S another transfer value quotation. This also mentioned an early exit penalty that would apply to a transfer made before 13 March 2019.
7. Mr S then asked Fast Pensions to transfer his pension funds from the Plan to another pension arrangement, the F Source Solutions Retirement Benefit Scheme.
8. On 19 August 2015 Fast Pensions asked Mr S to complete a “member transfer analysis form”, saying that payment of a cash equivalent transfer value would be made only once that form had been received and the legitimacy of the receiving arrangement had been established. Mr S completed and returned the form on 1 September 2015.
9. On 3 February 2016 Fast Pensions told Mr S that all the necessary due diligence checks relating to the proposed transfer had been completed, and said:

“Once we have received confirmation from F Source [Solutions] Retirement Benefit Scheme that they are in a position to accept the transfer, a request for authorisation of the transfer will be passed to the Trustees. They are responsible for the management of the [Plan] and have the final decision on all transfer requests.”
10. On 8 March 2016 Mr S complained to Fast Pensions that it had recently told him that only an in-specie (not cash) transfer would be available to him; he said this information had not been mentioned in the earlier letters from Fast Pensions, and was inconsistent with the information given previously by Fast Pensions that an early transfer would be available subject to an exit deduction charge. Mr S said “It is impossible for me to draw any conclusion other than the fact that you have deliberately and wilfully obstructed this transfer at every stage of the process.” Mr S asked Fast Pensions to reconsider its position; if an in-specie transfer was the only option available to him he wanted a full and detailed explanation from Fast Pensions.
11. Unfortunately communications from Fast Pensions then ceased, so Mr S contacted us. Our request to Fast Pensions for a formal response to the complaint was dated 25 January 2017 and was sent to the postal address currently shown on its website. The letter (and its enclosures) was sent back to us.
12. When Fast Pensions re-established contact with us, its scheme administrator emailed to say that “the transfer is under control...and moving at a good pace...and “I am not sure that the determination is necessary in this case as internal procedure adopted and moving along nicely.”

Adjudicator's Opinion

13. Mr S'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 Mr S's enquiries and had unreasonably delayed his transfer out. Fast Pensions should have told Mr S in 2015 about any in-specie transfer restrictions, but he was not informed until the following year.
- It was not clear whether the current value of Mr S's pension funds would have been greater if the transfer had been completed in 2015 or 2016. However, even if there was no financial loss, Fast Pensions' delays and lack of communication constituted maladministration, which had caused Mr S 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 S's complaint which would warrant a different outcome here.
- It was apparent, from our experience in similar cases and with members who had complained to us, that Fast Pensions had effectively been uncontactable, and thus not compliant with a number of its duties, for a considerable period of time. Some contact had recently been re-established, and promises made to address the previous problems, however so far – and in particular in Mr S's case – these had not been met.
- We had not seen any formal request from Mr S to transfer from the Plan to F Source Solutions Retirement Benefit Scheme, but the correspondence that he received from Fast Pensions indicated that he had submitted one. Mr S 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 purposes 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. If Mr S makes 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 S's queries about accessing his pension funds, assist him in exercising any statutory right to a transfer out if he so wishes and pay him £500 to reflect the significant distress and inconvenience that its maladministration had caused him.

14. In response, Mr S said he was pleased that Fast Pensions had made contact with him again about his proposed transfer. However, he reiterated that he was unhappy that after Fast Pensions had quoted a transfer value (subject to an early exit penalty) in 2014 and 2015, and implied that the transfer would soon be completed, it had only informed him in 2016 that a transfer in cash (which his new pension provider would prefer) would not be available.
15. Despite being given the opportunity to do so, Fast Pensions failed to clarify whether it accepted the Opinion, which contained a finding that Fast Pensions should compensate Mr S. Therefore it is appropriate for me to make a determination on Mr S's complaint.

Ombudsman's decision

16. 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 S.
17. I note that Fast Pensions has still not provided an up-to-date postal address.
18. 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.
19. Based on the evidence that we have, I agree that maladministration has been established, and therefore I uphold Mr S'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.
20. I will increase the compensation payment that the Adjudicator had suggested should be paid by Fast Pensions, because its most recent emails to us imply, incorrectly in my view, that Mr S's complaint is being resolved in a satisfactory manner.

Directions

21. I direct that Fast Pensions shall:
 - within 14 days of the date of this determination, provide a full answer to any outstanding queries that Mr S has regarding the Plan; if Mr S seeks to exercise a valid statutory right to transfer out of the Plan then, within 28 days of Mr S 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

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- within 28 days of the date of this determination, pay Mr S £1,500 to reflect the very significant distress and inconvenience caused to him by its maladministration.

Anthony Arter

Pensions Ombudsman
30 March 2017