

## Ombudsman's Determination

Applicant	Mr N
Scheme	Pinnacle Pension Scheme ( <b>the Scheme</b> )
Respondent	Chartwell Trustee Pension Solutions Ltd ( <b>Chartwell</b> )

## Outcome

1. Mr N's complaint is upheld and to put matters right Chartwell should within 14 days provide Mr N with the information he has requested. It should also pay Mr N £2,000 for the significant distress and inconvenience he has experienced.
2. My reasons for reaching this decision are explained in more detail below.

## Complaint summary

3. Mr N has complained that he has been unable to obtain any information on his pension benefits with the Scheme. He has written to Chartwell and Mr Payne the sole director of Chartwell on several occasions and via recorded delivery and has received no response.

## Background information, including submissions from the parties

4. Mr N agreed to transfer his pension benefits from the Lloyds Banking Group Pension Scheme to the Scheme in 2013. The Scheme was promoting investment in storage pods for a five year period. The investment was to provide guaranteed returns of 8% a year for the first two years, 10% for the next two years and 12% thereafter.
5. Mr N says that he received benefit statements as at 30 October 2014 and 30 October 2015, showing that his investment had grown by 8% a year but he has not received a statement for 2016.
6. Mr N initially thought that the lack of a benefit statement for 2016 may have been because his new address had not been updated although he had notified Chartwell of this. Mr N tried to contact Chartwell initially by email but received no response to his emails.
7. Mr N then tried to contact Chartwell by telephone using the telephone listed on Chartwell's documentation but this was answered by a cleaning company who

informed him they had received a number of other calls from people trying to contact Chartwell.

8. Mr N then wrote to Chartwell's registered address and as he did not receive a reply he sent another letter to the registered address by recorded delivery. Mr N also wrote to Mr Christopher Payne who is listed as the sole director of Chartwell at Companies House at the correspondence address in Sittingbourne Kent. As Mr N did not receive a response to any of his enquiries he brought his complaint to this office.

## **Adjudicator's Opinion**

9. Mr N's complaint was considered by one of our Adjudicators who concluded that further action was required by Chartwell. The Adjudicator's findings are summarised briefly below:-
  - The Adjudicator confirmed that he had experienced the same difficulties as Mr N has described in attempting to obtain information from Chartwell.
  - The Scheme is a defined contribution scheme and as trustee of the Scheme Chartwell has a fiduciary duty to act in accordance with the rules of the scheme. Chartwell also has legal obligations in relation to the way in which the Scheme is operated. Chartwell's duties and obligations extend to Mr N as a member of the Scheme.
  - The Pensions Regulator has set out in its codes of conduct for trustees managing defined contribution schemes details of what information should be provided to members either routinely or when requested. Amongst the information that must be provided is an annual benefit statement to members showing the value of their investments. Chartwell should also make available to members an annual report setting out the audited accounts of the Scheme and details of the investment policy being pursued. Mr N has not been provided with an annual benefit statement within twelve months of the 2015 benefit statement and this is maladministration. The Adjudicator also suspected, on the balance of probabilities, that no annual report has been prepared and this would be a breach of the Pension Regulator's code of conduct and should be reported.
  - Chartwell has failed in its legal and fiduciary duties to Mr N and, in doing so, has acted in maladministration.
  - It is not clear whether Mr N has suffered any financial loss as a result of Chartwell's failure to provide the information. However, the Adjudicator considered that Chartwell had caused Mr N significant distress and inconvenience as he had been unable to obtain details about his pension provision, over a prolonged period of time and he should be compensated for this.
10. Mr N accepted the Adjudicator's Opinion but no response has been received from Chartwell. I agree with the Adjudicator's Opinion.

**Ombudsman's decision**

11. The fact that Mr Payne, the Trustee, has not replied to either Mr N or the Adjudicator confirms that there has been maladministration. I therefore uphold Mr N's complaint and make the following directions.
12. The directions are, if necessary enforceable by Mr N in the County Court as if they were a County Court Order (section 151(5) of the Pension Schemes Act 1993 and regulations thereunder).

**Directions**

13. Chartwell shall, within 14 days of the date of this Determination provide Mr N with the information he has requested. Chartwell should also provide Mr N with a copy of its annual report for the Scheme for 2016. If no such report is available Mr N and Chartwell should report the matter to the Pensions Regulator.
14. Chartwell shall also within 14 days of the date of this Determination pay Mr N £2,000 in recognition of the significant distress and inconvenience he has experienced.

**Anthony Arter**

Pensions Ombudsman  
27 September 2017