

## Ombudsman’s Determination

Applicant	Mr D
Scheme	Centrica Pension Plan ( <b>the Plan</b> )
Respondents	Centrica Pension Plan Trustees Limited ( <b>the Trustees</b> ) Mercer Limited ( <b>Mercer</b> )

## Outcome

1. I agree with the complaint but, in my opinion, the offer of compensation made by the Trustees and Mercer is sufficient.
2. My reasons for reaching this decision are explained in more detail below.

## Complaint summary

3. Mr D has complained that the pension paid to him was lower than originally quoted and the tax-free cash lump sum was later misquoted.

## Background information, including submissions from the parties

4. Mr D began employment in 1980.
5. In 2016 there was a restructure of the company Mr D was employed by. Mr D says that as a result of the restructuring programme in his department his role disappeared and he chose not to apply for the new roles as they didn’t suit his skill set. As a result, Mr D opted to take redundancy. On 9 September 2016, a pension statement was sent to Mr D with a number of options. The statement provided the following information:

“... Option 3b

Annual pension	Tax free cash lump sum
£30,865.94	£147,826.33

...

### Important information

This statement is based on the information currently held by the Administrator of the Pension Plan and is produced for information only. It is not proof of

entitlement to benefits. All benefits must be calculated and paid in accordance with the trust deed and rules of the Plan and legislation, and are therefore subject to review before payment.”

Mr D decided to take redundancy and opted for option 3b on the day he received the pension options.

6. On 23 March 2017, Mercer, on behalf of the Trustees incorrectly confirmed that a cash sum of £153,933.01, had been sent to Mr D’s nominated bank account. However, the amount actually paid into Mr D’s account was £147,826.33. Mercer also said that Mr D’s annual pension was £28,693.51 and the commencement date was 31 December 2016. It said the benefits had been recalculated to take into account the April 2017, increases and so from 1 April 2017, his annual pension would be £28,764.72.
7. Mr D wrote a letter of complaint on 28 March 2017. He asked why his annual pension was £2,101.22 less than the statement he received. He also queried why the lump sum he received was lower than in the letter the Trustees sent on 23 March 2017.
8. Mr D’s complaint was dealt with under the Scheme’s internal dispute resolution procedure. The Trustees acknowledged that Mr D’s pension had been overstated in the estimation provided on 9 September 2016, by Mercer. It apologised for the error, but explained that it must pay benefits in accordance with the Plan rules. The Trustees explained that the letter of 23 March 2017, from Mercer, also had an error in that it stated a higher tax-free cash lump sum amount than he was entitled to. Although, the Trustees said it could not provide the misquoted amounts, it agreed that Mr D would have suffered distress and inconvenience and offered a payment of £1,000.
9. Mr D remained dissatisfied and brought his complaint to the Pensions Ombudsman to be independently reviewed.

## **Adjudicator’s Opinion**

10. Mr D’s complaint was considered by one of our Adjudicators who concluded that no further action was required by Mercer and the Trustees. The Adjudicator’s findings are summarised briefly below:-
  - There was no dispute that an error occurred as the Trustees agreed that the original estimate was overstated, and that the letter of 23 March 2017 quoted an incorrect tax-free cash lump sum. The Trustees accepted that this would have caused concern for Mr D.
  - Whilst it was unfortunate that the original estimate sent to Mr D, on 9 September 2016, was overstated, it was an estimate and subject to change. Mr D should not have expected to receive the precise amount stated.

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- Although, it would have been frustrating for Mr D that he was provided with incorrect information, on two separate occasions, the Trustees are required to pay benefits in accordance with the Plan's rules and this is what it is doing.
  - Mr D had suffered distress and inconvenience, but the award of £1,000 offered by the Trustees was reasonable.
11. Mr D did not accept the Adjudicator's Opinion and the complaint was passed to me to consider. Mr D provided further comments which do not change the outcome. Mr D said the following:
- he made his decision to take redundancy based on the data supplied. He could have also opted to stay with the company;
  - He had emotional and difficult decisions to make in September 2016. He based his and his families' future on this set of financial options. His son and daughter both started university in September of that year; and
  - he believes the offer for distress and inconvenience was insufficient.
12. I agree with the Adjudicator's Opinion and I will therefore only respond to the key points made by Mr D for completeness.

### **Ombudsman's decision**

13. Mr D has complained that the pension paid to him was lower than originally quoted and the tax-free cash lump sum was later misquoted.
14. It is clear that the Trustees provided incorrect information to Mr D on a number of occasions and that this amounts to maladministration.
15. Nevertheless the Trustees can only pay the amount of benefit to which Mr D is entitled under the Rules. The only exception to that rule is if he was provided with a clear and unequivocal statement upon which he can show he reasonably relied to his detriment. The burden of proving this is on Mr D.
16. The estimate which he received contained a prominent warning that it was not a statement of entitlement and that benefits were subject to review before payment. That does not excuse the information contained in the estimate being wrong, but I do not consider that it was a clear statement of entitlement. I consider the warning was sufficient to put Mr D on notice that he needed to check the benefit to which he would be entitled before making a decision as significant as whether to opt for redundancy.
17. Mr D made the decision to opt for redundancy on the day he received the estimate of his pension. He said he based his and his families' future on this set of financial options. Mr D says his son and daughter both started university in September of that year and he could have opted to stay with the company and not take redundancy. I do not consider that it would have been reasonable to base such a significant decision on the unchecked estimate.

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18. Mr D has also explained that the company was restructuring and he would have had to re-apply for one of six roles. He said the roles available to him did not suit his skill set which is why he opted to take redundancy. He therefore had more than purely financial factors in mind when he made his decision.
19. On the balance of probabilities, I think it unlikely that Mr D would have changed his decision to take redundancy. Particularly, given that the income difference was only about £170 less per month and he was faced with re-applying for roles that he says, did not suit his skill set.
20. Further, there were other options available to Mr D to try and mitigate his circumstances once he became aware that his retirement income was lower than estimated. Whilst the time gap makes it unlikely that he could have returned to his previous employer he could have sought employment elsewhere to make up his annual income had he so wished.
21. In summary, Mr D cannot receive benefits from the Plan that he was not entitled to and I am not persuaded that he can demonstrate that he reasonably relied on the estimate to his detriment.
22. Mr D believes the award offered by the Trustees of £1,000 is insufficient. £1,000 for this type of award is in line with the awards which I would normally make in similar circumstances. . The offer is still available for Mr D to accept.
23. Although, I agree that providing the incorrect statement of benefits was maladministration, I believe a sufficient award for distress and inconvenience was made at a stage before the complaint was brought to the Ombudsman. Therefore, I do not uphold Mr D's complaint.

**Karen Johnston**

Deputy Pensions Ombudsman  
14 May 2018