

Ombudsman's Determination

Applicant	Mrs S
Scheme	Pearl Staff Group Pension Scheme (the Scheme)
Respondent	First Actuarial LLP (First Actuarial)

Outcome

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

Complaint summary

3. Mrs S says First Actuarial unreasonably delayed the transfer out process. But for the delay, her total transfer payment would have been £3,722 higher.

Background information, including submissions from the parties

4. Mrs S was a member of the money purchase section of the Scheme. The section was contracted out of the State second pension on a salary related basis to 5 April 2016. She joined the Scheme in April 2001, and left in March 2010 with a deferred benefit entitlement. Mrs S attained normal retirement age (**NRA**) in June 2016.
5. The Scheme provides a defined benefit reference scheme test (**RST**) 'underpin' in respect of benefits for contracted-out service, payable from age 65. Where the value of a member's main pension pot is less than the value of the RST, the value of their fund is increased to the level of the RST pension.
6. Mrs S paid additional voluntary contributions (**AVCs**) into the Scheme.
7. In response to a request, received on 26 July 2016, from Mrs S' financial advisers (the **Adviser**), First Actuarial issued a transfer out illustration (the **August Quotation**) on 3 August 2016.
8. The August Quotation gave a breakdown of how Mrs S' pension pot was invested in the main Scheme, and provided the same details for her AVCs. Fund values of £93,362 and £51,028 were quoted in respect of her main pension pot and AVCs

respectively. First Actuarial stated that the values were not guaranteed, and that the actual amount available to transfer could be lower or higher than the values shown.

9. First Actuarial advised that the current transfer value of Mrs S' RST pension, as at 3 August 2016, was £122,037, and as the RST pension provided an underpin, that was the guaranteed sum to be paid to her new pension arrangement provided she made a request to transfer by 3 November 2016. The total transfer value amounted to £173,065; £122,037 of which was the value of Mrs S' RST pension and £51,028 in respect of her AVCs.
10. Based on the early retirement factors in force at the time, a reduction of 23% was applied to the RST pension on the basis that the benefits were to be taken five years before age 65 years. Mrs S' RST pension, revalued to date, and reduced for early payment, amounted to £3,014 per annum as at 24 June 2016.
11. As Mrs S had already attained NRA in the money purchase section of the Scheme, the transfer value of her RST pension was calculated by obtaining a costing of the fund value that would be required to provide a pension of £3,014 per annum, on the open market, based on prevailing annuity rates (**the Costing**).
12. First Actuarial explained that it needed the transfer out form, and appropriate independent advice form (**the Advice Form**), included in the transfer pack, to be completed and returned in order to process the transfer. The transfer information sheet enclosed with the paperwork said:

“The ... [RST] pension at your date of leaving was £3401.60 per annum.

The RST pension is revalued by price inflation for each complete year from the date you left pensionable service until you take your benefits. The revaluation is capped at 5% a year for service before 6 April 2009 and 2.5% a year for service after 6 April 2009.

“...Before we pay a transfer value we are required to see written confirmation from your adviser confirming that they have given you... [appropriate independent advice]. This form must be returned to us by 3 November 2016. ”
13. In the transfer pack, First Actuarial included a copy of the notes associated with benefit statements for the money purchase section of the Scheme. The 'Benefit Information' section of those notes set out the early retirement reduction factors that apply to the RST pension if benefits are taken before age 65.
14. First Actuarial has explained that the transfer statement and accompanying scheme information should have provided sufficient details for an adviser to give Mrs S advice on the transfer.
15. On 2 September 2016, 21 working days after the quote was issued, the Adviser requested details of the revalued RST pension. First Actuarial initially advised that it

was unable to provide the information and explained that the figures were worked out 'in the background by' its computer system.

16. On 13 September 2016, seven working days after the Adviser had insisted that First Actuarial provide the details, First Actuarial confirmed that Mrs S' RST pension amounted to £3,014 per annum as at 24 June 2016. First Actuarial requested the Adviser to contact it should the Adviser have any queries.
17. Having noticed that the revalued RST pension was lower than the amount at Mrs S' date of leaving, the Adviser contacted First Actuarial on 4 October 2016, 15 working days later, to query the figures.
18. On 14 October 2016, eight working days later, First Actuarial confirmed that the figure of £3,014 per annum it had quoted was correct. First Actuarial explained that Mrs S' RST pension at her date of leaving the Scheme was £3,401 per annum. As there were six complete tax years between her date of leaving and 24 June 2016, the RST pension had increased by 15.1% to £3,915 per annum. The revalued figure was then reduced by the early retirement factor of 23% to provide a RST pension of £3,014 per annum.
19. On 26 October 2016, the Adviser informed First Actuarial that it was not in a position to provide its client with advice by 3 November 2016: the expiry date of the August Quotation. First Actuarial agreed to issue a new transfer out illustration once it had expired.
20. The Adviser has explained that First Actuarial failed to include full details of the RST pension in the August Quotation. As the Adviser had to request the information, it was not possible to fully advise its client within the three month guarantee period.
21. On 12 November 2016, 20 working days after First Actuarial had reaffirmed the RST position, and the expiry of the August Quotation on 3 November 2016, the Adviser submitted Mrs S' application to transfer her pension to Royal London, the receiving scheme.
22. On 16 November 2016, First Actuarial issued a new transfer out quotation (the **November Quotation**) to Mrs S and her Adviser. The November Quotation gave a breakdown of how Mrs S' pension pot was invested in the main Scheme, and provided details of her AVCs. Fund values of £93,085 and £52,248 were quoted in respect of her main pension pot and AVCs respectively. First Actuarial stated that the values were not guaranteed, and that the actual amount available to transfer could be lower or higher than the values shown.
23. First Actuarial advised that the current transfer value of Mrs S' RST pension was £115,678, as at 8 November 2016, and as the RST pension provided an underpin, that was the guaranteed sum to be paid to her new pension arrangement provided she made a request to transfer by 8 February 2017. The total transfer value amounted to £167,926; £115,678 of which was the transfer value of Mrs S' RST pension and £52,248 in respect of her AVCs.

24. At the time of the November Quotation, Mrs S' RST pension amounted to £3,081 per annum allowing for revaluation to date of 15.1%, and an early retirement reduction factor of 21.3% as at age 60 years and 5 months. The transfer value of the RST pension was calculated by obtaining a Costing of the fund value required to provide the pension on the open market.
25. First Actuarial received a request for payment from Royal London dated 14 November 2016, on 17 November 2016. The Advice Form enclosed with the letter related to the transfer value that had expired. First Actuarial was unable to accept the Advice Form, as it must relate to the valid transfer value, not the invalid one.
26. On 28 November 2016, seven working days after First Actuarial received Mrs S' request to transfer, the Adviser chased First Actuarial for payment. Three working days later, First Actuarial informed the Adviser that the Advice Form it had received was invalid, and requested that the Adviser complete the copy enclosed with the November Quotation.
27. A new Advice Form was received by First Actuarial on 6 December 2016.
28. First Actuarial's normal service level to encash member AVC units is eight working days. First Actuarial has acknowledged that an instruction to disinvest Mrs S' units should have been sent sometime between 6 and 15 December 2016, in accordance with its standard turnaround times.
29. In the period that followed the Adviser chased First Actuarial for payment of Mrs S' transfer value and was told that there would likely be a delay.
30. On 22 December 2016, twelve working days after First Actuarial received the new Advice Form, it sent instructions to encash Mrs S' AVCs and informed her of this. On 3 January 2017, First Actuarial received the funds and notified Mrs S and Royal London of a final transfer value of £169,343, made up of AVCs of £53,665, valued as at 23 December 2016, and the transfer value of the RST pension quoted in the November Quotation amounting to £115,678. The payment was made on 5 January 2017, and received by Royal London on 9 January 2017.
31. First Actuarial has explained that instructions to disinvest Mrs S' AVCs were sent outside its normal service levels due to the extremely high workloads it was experiencing at the time. If it had issued it on 6 December 2016, the value of her AVCs available for transfer would have been £52,636, based on unit prices as at 7 December 2016.
32. If First Actuarial had instructed its investment managers on 15 December 2016, eight working days after receiving the Advice Form, in line with its administration service levels, the value of Mrs S' AVCs would have been £53,335, based on unit prices as at 16 December 2016.

33. First Actuarial has clarified that it informed Mrs S and the receiving arrangement that the transfer had been completed in accordance with its standard procedure. It accepts that it did not also inform the Adviser. It has apologised for this.
34. Mrs S' final RST value was £6,359 lower than that stated in the August Quotation. Her final AVC value was higher by £2,637 when compared with the AVC valuation in August 2016. The aggregate transfer value quoted in the November Quotation is £3,722 lower than the total figure in the August Quotation.
35. First Actuarial does not accept that it is responsible for the financial loss Mrs S is claiming. She did not make a valid application to transfer before the August Quotation had expired. While First Actuarial delayed disinvesting her AVCs, she actually received a higher value for her AVCs.
36. Mrs S considers First Actuarial to be partly responsible for the delay in processing the transfer. She considers £3,722 would be reasonable compensation.

Adjudicator's Opinion

37. Mrs S' complaint was considered by one of our Adjudicators who concluded that no further action was required by First Actuarial. The Adjudicator's findings are summarised briefly below:-
 - The transfer notes confirmed the RST pension at Mrs S' date of leaving, the revaluation rates, and its current value. Details of the early retirement factors that apply to the RST pension, if benefits are taken before age 65, were included with the August Quotation. The information should have been sufficient to confirm the position.
 - In any case, the evidence does not support that First Actuarial excessively delayed responding to the Adviser's subsequent queries concerning the RST pension.
 - While the disinvestment of Mrs S' AVCs was delayed by First Actuarial, her AVCs actually increased in value during the period of the delay.
38. Mrs S did not accept the Adjudicator's Opinion and the complaint was passed to me to consider. Mrs S has provided her further comments but these 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 S for completeness.

Ombudsman's decision

39. Mrs S says that she had not previously been made aware by First Actuarial that a reduction to the RST pension would apply if she took her benefits before age 65. All the documentation she received consistently stated that her normal retirement date would be in June 2016.

40. Mrs S says she wants an explanation for the overall drop of £3,722 in the final transfer value, so that she can understand whether it was due to a reduction in the value of the RST pension, that she and her Advisers had not expected, or a fall in the value of units within either her main pension pot or her AVC account, between the date the figures were quoted to Royal London and 3 January 2017, the date her funds were encashed.
41. Mrs S says she also needs to understand whether First Actuarial's failure to respond promptly to her Adviser's query about the RST pension in August [September] 2016, frustrated the transfer out process causing a delay that meant the three month guarantee period had expired, and markets had fallen, by the time her units were eventually sold.
42. I will first consider Mrs S' comment about the early payment reduction applied to the RST pension. While Mrs S' NRA is age 60, the 'benefit information' in the notes that accompany the benefit statements for the money purchase section of the Scheme, confirmed that if benefits are taken before age 65, the RST pension would be reduced. Consequently, I am satisfied that Mrs S was made aware of the position.
43. The RST underpin guaranteed that the amount available for transfer of Mrs S' main pension pot would not be less than the value of her RST pension. The August Quotation stated that the transfer value in respect of the RST pension, was guaranteed for three months. Once the deadline had been missed, there was no obligation on the trustees to honour the RST value quoted in that illustration.
44. Actuarial assumptions used for calculating transfer values in respect of defined benefits must be set on a 'best estimate' basis. While the RST value was lower in the November Quotation, there is no valid reason to suspect that the calculation was wrong.
45. After receiving the August Quotation, Mrs S' advisers raised queries about the RST pension. The question for me to answer is whether First Actuarial either caused or contributed to the delays which led to the 3 November 2016, guarantee date being missed. I am unable to find that it did.
46. The information provided in the transfer pack, issued in August 2016, ought to have been sufficient in the circumstances. Nonetheless, the evidence supports that First Actuarial responded to the Adviser's queries about the RST pension within reasonable timescales.
47. Turning now to the transfer value quoted on 16 November 2016. The value of Mrs S' main pension pot amounted to £93,085 as at 14 November 2016. The value of her RST pension as at 8 November 2016, was £115,678. Therefore, the RST pension clearly produced a higher transfer value than Mrs S' main pension pot.
48. With regard to the payment of Mrs S' transfer value, First Actuarial did not instruct its investment managers to encash her AVC units until 22 December 2016. That said, had it issued the instructions the same day it received the new Advice Form, the

value of her AVCs, which would have been transferred out, were of a lower value than the amount she received. Consequently, there is no evidence to support the contention that she was financially disadvantaged by First Actuarial's delay in disinvesting her units at the first opportunity.

49. In reaching my findings on Mrs S' complaint, I have considered that, had instructions been sent to the investment managers on 15 December 2016, the final day of the eight working day period, in accordance with First Actuarial's service levels, the value of the AVCs available for transfer would also have been lower than the value actually paid.
50. I am not persuaded that the missed opportunity to secure the higher transfer value quoted on 3 August 2016, amounts to actual financial loss. No evidence has been provided to support a finding that Mrs S entered into irreversible financial commitments, or made financial decisions, based on receiving the transfer value of £173,065, or on the understanding that she still had a right to the RST value quoted after it had expired on 3 November 2016.
51. Even if such evidence was available, it would not have been reasonable for Mrs S to have done so, before first receiving confirmation that all the Scheme's transfer requirements had been met and that her application to take the transfer value of the RST pension, quoted on 3 August 2016, had been received on time, and that, either the funds had been received by the receiving scheme, or, at the very least, they were in the process of being transferred.
52. Therefore, I do not uphold Mrs S' complaint.

Anthony Arter

Pensions Ombudsman
6 December 2017