

Ombudsman's Determination

Applicant	Mr E
Scheme	Green Coal Limited Occupational Pension Scheme (the Scheme)
Respondent	Green Coal Limited

Outcome

1. Mr E's complaint is upheld and to put matters right, Green Coal Limited will respond to Mr E with information about his pension, and pay him £3,000 for the exceptional distress and inconvenience caused to him by its maladministration and failure to respond to his enquires.

Complaint summary

2. Mr E is unhappy that he has not been provided with any information on his pension since a year after he transferred into the Scheme.

Background information, including submissions from the parties

3. Mr E was previously employed by the Royal Air Force (**RAF**) and was a member of the Armed Forces Pension Scheme (**the ceding scheme**). I understand that he left the RAF in 2007 and became a deferred member of the ceding scheme.
4. In April 2013, Mr E wrote to Veterans UK saying that he wished to transfer his pension.
5. On 6 August 2013, Mr E signed an Existing Pension Scheme Transfer Instruction form, on Green Coal Limited headed paper. On this, Green Coal Limited was named as the administrator of the Scheme.
6. On 9 December 2013, Veterans UK confirmed that it had made payment of Mr E's funds, an amount of £20,824.83, into the Scheme.
7. On 26 July 2016, Green Coal Limited was dissolved.
8. On 28 February 2017, Mr E wrote to Green Coal Limited saying:

"I invested into your company via a pension scheme you are currently running. My pension was roughly £21k and was transferred to you on 9/12/13...I received a good report from you after 1 year but I have heard nothing since. I have also lost my paperwork from you during a recent house move so I am without information on the scheme and who to contact. The person who I dealt with was Colin Bevan. I was wondering if you could resend them documents...with details of a recent report on my investment...I would appreciate a swift response to this letter as I am eager to know how things are going."

9. Mr E did not receive a response to the above letter.
10. Mr E subsequently referred his complaint to The Pensions Ombudsman (**TPO**). In his application form, he said:

"I moved my pension worth around £21,000 to Green Coal Ltd on 9/12/2013...It was a 5 year investment plan. Green Coal Ltd Company Reg No. – 08589354 dissolved on 26/7/16 and I have no trace of what has happened to my pension."
11. In the section of our application form which asks how the matter should be put right, Mr E responded saying he wished for the pension to be recovered so he could move it to a more reliable scheme.
12. On 23 April 2018, TPO wrote to the individual named on Mr E's application form as a scheme manager, Colin Bevan, at Green Coal Limited for a response to the complaint. Mr Bevan was also named as a Director of Green Coal Limited on Companies House. A response was not received to this request.
13. On 7 March 2019, the Adjudicator investigating the complaint wrote to Mr Bevan at Green Coal Limited, asking for a response to the complaint; no response to date has been forthcoming.

Adjudicator's Opinion

14. The complaint was considered by one of our Adjudicators who concluded that further action was required by Green Coal Limited. The Adjudicator's findings are summarised below:-
 - Green Coal Limited failed to respond to Mr E's request for an update on his plan and a copy of the previous paperwork it had issued, on his Scheme pension benefit. This constituted an administrative error on its part as administrator and would have caused Mr E serious worry over the status of his pension.
 - It was possible that the letters, sent by TPO to Green Coal Limited, had not been responded to as they had not been received. However, the address for Green Coal Limited on Companies House remained the same as it was during

the transfer in 2013. Should this address have changed, Green Coal Limited was responsible to update its members and the relevant authorities of this.

- It did not appear that Mr E had formally requested to transfer his pension out of the Scheme, but his application form to TPO suggested that he wished to eventually do this. Mr E has a statutory right to transfer under Section 94 of the Pension Schemes Act 1993 (**the Pensions Act**).
- To qualify as an application for the purpose of the six-month time limit in Section 99 of the Pensions Act, such a request would require the respondent 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 E make a valid request to transfer, Green Coal Limited would be obliged to respond in accordance with the Pensions Act.
- Green Coal Limited should respond to Mr E's request for information on his pension. If Mr E exercised his statutory right to transfer, Green Coal Limited should pay the transfer value to the named arrangement within 28 days of the request. Further, Green Coal Limited should pay Mr E £1,000 for the serious distress and inconvenience caused to him by its poor administration and lack of a response to his enquiries.

15. Mr E accepted the Adjudicator's Opinion. Green Coal Limited did not respond so the complaint the complaint has been passed to me to consider.

Ombudsman's decision

16. Mr E transferred his benefits into the Scheme towards the end of 2013 and I understand that since 2014, he has received no correspondence or update as to the status of his pension plan.
17. In recent years Mr E tried to make enquiries regarding this pension but he has received no reply or acknowledgement. Mr E notes in his application form to TPO that he has "no trace" of what happened to his pension and is aware that Green Coal Limited has been dissolved.
18. Green Coal Limited is obliged to provide Mr E with information on the status and security of his pension and its failure to do so is a serious regulatory breach. These events will have caused Mr E understandable worry and distress, for which it would be appropriate for Green Coal Limited to make a non-financial injustice award to Mr E, in line with the exceptional category of our non-financial injustice scale.
19. Although it does not appear that Mr E has made a formal request to transfer away from the Scheme, Mr E suggests in his application form to TPO that this would be his intention.

20. Mr E has a statutory right to transfer in accordance with the Pensions Act. Green Coal Limited must respond to any valid request in accordance with this.
21. In light of my findings above, I have concerns in relation to the status of the Scheme. TPO will report Mr E's complaint to The Pensions Regulator; it might wish to carry out its own investigations into Green Coal Limited and the Scheme.
22. I uphold Mr E's complaint.

Directions

23. Green Coal Limited shall:

- Within 14 days of the date of this determination, respond to Mr E's request for an up to date statement on his plan and copies of documents which it previously issued. Should Mr E exercise his statutory right to transfer, Green Coal Limited will pay the transfer value to the named arrangement within 28 days of the request, following any checks as required and provided that the named arrangement is prepared to accept the transfer.
- Within 28 days of the date of this determination, pay Mr E £3,000 for the exceptional distress and inconvenience caused to him by its maladministration and failure to respond to his enquires.

Anthony Arter

Pensions Ombudsman
26 November 2019