

## Ombudsman's Determination

Applicant	Mr Y
Scheme	Texas Instruments Limited Pension Plan ( <b>the Plan</b> )
Respondent	Texas Instruments (U.K.) Pension Trust Company Ltd ( <b>Texas Instruments</b> )

## Outcome

1. I do not uphold Mr Y's complaint and no further action is required by Texas Instruments.
2. My reasons for reaching this decision are explained in more detail below.

## Complaint summary

3. Mr Y's complaint is that Texas Instruments:-
  - Issued an incorrect Cash Equivalent Transfer Value (**CETV**) to him in April 2016 (the **2016 CETV**), which he has relied on to his financial detriment.
  - Provided unclear information in the 2016 CETV, as well as in other correspondence, which caused Mr Y to rely on the 2016 CETV.
  - Did not provide a sufficient explanation for the error, nor notify him that there had been a mistake.
  - Dealt with his complaint incorrectly and did not answer all of his questions.

As a result, Mr Y would like Texas Instruments to honour the 2016 CETV and offer an award for the distress and inconvenience caused.

## Background information, including submissions from the parties

4. On 1 April 2016, Texas Instruments sent Mr Y a "Statement of Entitlement to a guaranteed CETV", which quoted a transfer value of £345,384.00. The statement confirmed that the transfer value was calculated from 18 March 2016, with an expiry date of 18 June 2016 for accepting it. Mr Y chose not to transfer his benefits at that time, therefore they remained in the Plan.

5. Four CETVs were issued for Mr Y, prior to the 2016 CETV in 1991, 1998, 1999 and 2006. A further CETV statement was asked for and issued, dated 28 February 2017 (the **2017 CETV**), which quoted a transfer value of £228,629.04. Mr Y queried the £116,754.96 difference and received two written responses from Texas Instruments. The first letter of 4 April 2017 explained that a data review had identified a discrepancy in Mr Y's records. Mr Y had transferred his benefits to the Plan, from his previous membership in the Bourns Electronics Limited Scheme (**BEL Scheme**), and these had been overvalued when the 2016 CETV was produced. In its second letter, dated 17 May 2017, Texas Instruments again confirmed that there had been incorrect treatment of Mr Y's transferred in benefits. It explained that additional inflationary increases up to age 65 had been inadvertently applied, which accounted for around £111,000 of the difference. The rest was due to a revised method for the transfer value calculations which was applied from 1 October 2016.
6. Mr Y raised a complaint on 19 May 2017. He questioned Texas Instruments' reasons for the error, the calculations and queried whether there were other factors for the decrease in the CETV amount. Specifically, Mr Y asked about two events that he was informed about by letter in 2015, where Texas Instruments had stated that the event would not affect his pension benefits. The first was the merger that took place on 31 March 2015, where the assets and liabilities of the Texas Instruments (UK) Limited Pension were moved into the Plan. The second was the resolution regarding surplus payments that took effect on 1 April 2016. In addition to this, Mr Y requested an explanation for the transfer value difference alongside details of his pension fund's performance.
7. Texas Instruments responded with its initial response under the Plan's Internal Enquiry and Dispute Procedure (**IEDP**) on 6 July 2017. It confirmed that neither the merger nor the resolution affected Mr Y's benefits, and explained in detail the reasons behind the different transfer values quoted. It reconfirmed that there were two reasons for the overvaluation: the additional increases applied to Mr Y's transfer-in from the BEL Scheme; and a change in the underlying assumptions for calculating transfer values. Further, Texas Instruments responded to Mr Y's queries about the guarantee period for CETVs and explained that, as the Plan was a defined benefit arrangement he did not have a personal pension fund which could be tracked. Texas Instruments apologised for its error and offered £500 for Mr Y's inconvenience.
8. On 11 July 2017, Mr Y contacted Texas Instruments to appeal its decision. He believed that the complaint process was not impartial, that his benefits had been affected by the merger and explained how he could not accept Texas Instruments' explanation for the incorrect 2016 CETV. Mr Y said he had been misled as he believed he had been given different explanations.
9. Mr Y raised several questions in relation to his benefits from the BEL Scheme. He asked what would have happened had he taken the 2016 CETV, and for clarification of the figures quoted on his 2016 CETV statement. Mr Y claimed that Texas Instruments had manipulated him by not informing him of the decreased CETV

amount, and maintained that there had been maladministration. As a result of this, he had experienced distress and inconvenience and explained that there had been an impact on his retirement plans.

10. On 21 August 2017, Texas Instruments issued its response under stage two of the Plan's IEDP. Whilst it addressed Mr Y's questions about his BEL Scheme benefits and his other concerns, its position had not changed from its initial complaint response.
11. Consequently, Mr Y complained to The Pensions Ombudsman on 22 August 2017, as he believed Texas Instruments had failed to answer his questions. It was at this point that Mr Y asserted that he had been provided with unclear information, that there had been a loss of expectation and a financial impact on him due to his reliance on the 2016 CETV.
12. Mr Y explained that he has incurred IFA fees for a report based on the 2016 CETV, and that he has had to continue to work, when he had planned on retiring. Additionally, based on the 2016 CETV, Mr Y thought he was in a position to help his son by buying a property, and was under the impression that he could have cleared his credit card debt as well.
13. Whilst this Office has been considering this complaint, a further CETV was issued on 8 February 2018 (the **2018 CETV**), which amounted to £244,923.00.

## **Adjudicator's Opinion**

14. Mr Y's complaint was considered by one of our Adjudicators who concluded that no further action was required by Texas Instruments. The Adjudicator's findings are summarised below:-
  - Mr Y has been given incorrect figures on the 2016 CETV. However, a finding of maladministration is not enough to establish detrimental reliance. It also must have been reasonable for Mr Y to have relied on the incorrect information in the manner that he claims to have done and that he suffered a loss as a result.
  - Prior to the 2016 CETV, Mr Y had been provided with CETVs in 1991, 1998, 1999 and 2006. Although these were over a decade old, the transfer value in 1999 was £23,719.00 and only increased to £60,843.00 in 2006. As such, Mr Y could have questioned the stark increase in 2016 and so it was not reasonable for him to have relied on the 2016 CETV.
  - Even if it was reasonable for Mr Y to have relied on the information, there was no financial detriment identified:-
    - Mr Y would have incurred IFA fees as members considering transferring benefits from a defined benefit scheme valued at more than £30,000 have to obtain independent advice.

- He had already decided to continue employment in 2015, with an 18-month contract, and so cannot reasonably argue that he relied on the 2016 CETV when making this decision.
  - There is nothing to suggest that Mr Y would have acted differently in relation to his son who was experiencing financial difficulties. Mr Y was able to purchase a property, without the use of his pension benefits, and rented this out to his son. This would be considered as an asset and not a loss.
  - His credit card debt was a pre-existing liability, this was his responsibility and is not affected by the 2016 CETV.
- Mr Y had the opportunity to contact Texas Instruments had anything been unclear to him. However, Mr Y had previously made an argument that the correspondence issued in 2006 had been misleading, in that Mr Y had thought he had estimated benefits of £9,464.28 under the Plan, in addition to benefits under his BEL Scheme of £8,223.00. In fact, Mr Y's interpretation was correct and so it cannot be argued that he relied on this to his detriment. Additionally, Mr Y's benefits are in a defined benefit scheme, and so there is no individual fund for him to review.
  - Texas Instruments had provided a sufficient explanation for the error, and whilst it would have been helpful for Texas Instruments to have notified Mr Y when it realised there had been one, it was discovered after the guaranteed CETV period had passed. As such, it was subject to change anyway. In addition to this, trustees are required to review the underlying assumptions, which amounted to some of the change between the 2016 CETV and the 2017 CETV.
  - Texas Instruments had provided Mr Y with information in relation to the IDR process and there had been no error. Taking what happened into account, the £500 offered to Mr Y was sufficient.
15. Mr Y did not accept the Adjudicator's Opinion and provided his further comments. Mr Y explained that his points concerning Texas Instruments providing unclear, inadequate and inconsistent information about his benefit entitlement had not been specifically addressed. He raised the following points:-
- He has been provided with intermittent and unclear information up to the 2016 CETV. As a result, it was reasonable for him to have relied on the 2016 CETV.
  - A further award should be made to recognise that Texas Instruments has failed to provide clear, adequate and consistent information about his pension benefits, which has caused distress and inconvenience.
  - He was not provided with a leaver's statement, nor was he provided with clear information about his benefits under the BEL Scheme. He was given no reason to think that his BEL Scheme benefits would not be revalued as a deferred member of the Plan.

- Mr Y asked for clarification on:
    - The date his's BEL Scheme benefits were accepted and transferred into the Plan.
    - The basis on which the Plan's Actuary is verifying the CETVs provided to him.
    - Why he should not be entitled to revaluation in respect of his BEL Scheme benefits, given the lack of communication by Texas Instruments and lack of clarity on transfer into and on leaving the Plan.
  - Mr Y had understood that his BEL Scheme benefits would be revalued, from information provided to him in 1992. When Mr Y reviewed the 2016 CETV, he did not see why this would be incorrect given that he thought his BEL Scheme benefits were subject to revaluation. It had not been made clear that this might not be the case and so Mr Y relied on the 2016 CETV.
16. The Adjudicator considered Mr Y's comments, but they did not change the Adjudicator's position. With regard to the unclear information provided, the Adjudicator explained that this Office would not be able to fully comment on this, due to the time that had passed. However, Mr Y still had the opportunity to contact Texas Instruments if he was unsure about his benefits, and there is no evidence that he did so. If, Mr Y believed the information in 2006 to have been unclear, he would have known at the time and so cannot now complain about it unless it was to support Mr Y's point about relying on the information provided to him. However, there would still need to be information to show that Mr Y acted to his detriment as a result.
17. In terms of the clarification sought, the Adjudicator explained that Mr Y should contact Texas Instruments directly about this, as they did not believe that the points materially changed the outcome of Mr Y's complaint. This was because an Actuary had reviewed the 2017 CETV and confirmed that the BEL Scheme benefits were correctly reflected in the 2017 CETV. Additionally, the Adjudicator noted that a member is only entitled to the correct level of benefits paid under the Plan rules.
18. Mr Y did not accept the Adjudicator's further comments and the complaint was passed to me to consider. Mr Y provided his further comments which do not change the outcome. I agree with the Adjudicator's Opinion and I will therefore only respond to the key points made by Mr Y Ltd for completeness.
19. In summary, Mr Y's response to the Adjudicator's further comments, raised the following points:-
- Mr Y's complaint points cannot be considered out of time, as he was not aware that the information provided was unclear, and not what he had understood, until he received the 2017 CETV. The issues raised are in response to what has been said by Texas Instruments and the Adjudicator. Mr Y's complaint has

always concerned the CETV calculation and how the pension benefit information was demonstrated to Mr Y, which caused reliance on the 2016 CETV.

- The information provided to date, does not confirm what Mr Y is actually entitled to under the Plan, or that the 2016 CETV is incorrect. Mr Y has only been told that there was an additional revaluation that was incorrectly applied to the transfer value. As such, Mr Y requests a statement of his benefit entitlement in the Plan, by reference to the Plan rules and the information concerning the BEL Scheme benefits.
- Mr Y believes the Trustees made promises to him that his BEL Scheme benefits, transferred to the Plan, would be 'revalued' and 'additional to' his benefits under the Plan.
- Mr Y would like The Pensions Ombudsman to direct Texas Instruments to provide a clear calculation of Mr Y's benefits under the Plan, with a CETV by reference to the Plan's rules and BEL Scheme rules. He would also like to know the basis on which the BEL Scheme benefits were accepted into the Plan.
- Mr Y has never been provided a clear statement of his entitlement, to which a later CETV statement can be tested. As a result, Mr Y relied on the 2016 CETV as it was not clear that it was incorrect.
- An award should be made for the maladministration in relation to the 2016 or 2017 CETV. In addition to this, an award should be made for the inadequate and poor communication which has created this maladministration and has meant Mr Y's correct benefit entitlement calculation is awaited.
- The Trustees have not treated Mr Y correctly and so should provide the entitlement under the 2016 CETV. The Trustees have not shown that the 2016 CETV is incorrect, and Mr Y relied on this by assisting his son as he thought he was in a position to do so. As this case is complex, he has incurred legal costs that the Trustees should cover as well.

## **Ombudsman's decision**

20. I understand Mr Y's argument that no aspect of his complaint should be considered out of time. He has explained that he only became aware that the information was unclear and inadequate once he realised the 2016 CETV was incorrect. If I were to direct an award for unclear information, I would need to see how this has impacted Mr Y. From the information provided to this Office, it appears that the only impact, was that Mr Y relied on the 2016 CETV. Taking this into account, it is my view that if any award is directed, it would be based on the reliance of the 2016 CETV only.
21. Mr Y has stated that he has not been provided with information which indicates his entitlement, but I do not agree. The correspondence which was sent to Mr Y, dated 6 November 2006, outlines Mr Y's benefits. Mr Y is entitled to a preserved pension of

£1,812.10 per annum under the Plan. However, this is subject to increases to the Guaranteed Minimum Pension and Excess Pension elements, which is why the letter estimates that upon reaching the age of 65, Mr Y is estimated to have a pension of £9,464.28 per annum. The letter then later confirms that in 1992, Mr Y elected to transfer in £3,623 from the BEL Scheme, which entitled him to £8,223.00 per annum, as additional benefits. This was reconfirmed in Texas Instruments' letter, dated 10 January 2018, which although was produced after the 2016 CETV, it provides a current confirmation of Mr Y's pension benefits.

22. I consider this information to be clear and sets out what Mr Y is entitled to. A CETV would produce a calculation of an equivalent value of these benefits at the date of calculation, if Mr Y were to transfer out. As such, a CETV is not designed to outline Mr Y's benefits as a retirement statement would.
23. I note that Mr Y believes that his BEL Scheme benefits were to be revalued. Having reviewed the previous correspondence issued for Mr Y, I do not believe that he has been provided information which would suggest this. Correspondence issued in January 1992 states that with the transfer, Mr Y would be entitled to a transfer value of £3,623. This would provide a revalued single life pension of £8,223 per annum. This indicates that it was already revalued at that point. Additionally, further correspondence from February 1992 explains that, "such a transfer value payment will secure: [...] a level single life Pension of £8,223.00 per annum", indicating that it was not to increase. Given that there is also no mention of the BEL Scheme benefits being revalued further, in the later correspondence of 6 November 2006, I consider that the correspondence has been clear in this respect.
24. I understand Mr Y has raised questions about the basis his BEL Scheme benefits were transferred into the Plan, as well as which CETV is in fact, correct. However, I am satisfied that the correct treatment of Mr Y's BEL Scheme benefits is reflected in the 2017 CETV statement. The Scheme Actuary for the Plan has confirmed it and I have no reason to doubt this. Texas Instruments has provided a CETV in 2017 which appears to be in accordance with CETVs prior to the 2016 CETV, and the 2018 CETV also seems to reflect this. I note that the 2018 CETV also specifically states that, "the above figures include your transfer-in from Bourns Electronics Benefit Plan", and reconfirms what Mr Y is entitled to both under the Plan and from his BEL Scheme benefits. Considering this, I find that Texas Instruments has done enough in providing current information to demonstrate Mr Y's entitlement.
25. With regard to the 2016 CETV that Mr Y has said he relied on, I note that this was only guaranteed for 3 months. The one decision that I can see Mr Y made whilst potentially relying solely on the 2016 CETV, was the purchase of the property to help his son. As previously explained, Mr Y was able to do this without the use of any of his pension benefits, and property is considered an asset. In this instance, I do not find Mr Y has incurred a financial loss. This is because Mr Y has provided no information to suggest that he would have acted differently had he received the lower figures provided in the 2017 and 2018 CETVs. An error from Texas Instruments, with

no financial impact on Mr Y does not mean that he is entitled to an award regardless. However, I appreciate that there has been a loss of expectation.

26. Mr Y has said that Texas Instruments should honour the 2016 CETV, but as I cannot see that there has been any detrimental reliance, and I am satisfied that the 2016 CETV is incorrect, I do not believe that would be appropriate. In any case, this was a guaranteed value for three months and during this time, Mr Y decided not to take up the option. As such, he is not entitled to the expired CETV, even if that figure was correct at the time.
27. Mr Y has also claimed that due to the complexity of this matter, he has had to incur legal costs through no fault of his own. I do not consider that legal representation was necessary here, as I see no reason why Mr Y could not have brought his complaint to this Office on his own accord. It follows, that I do not find Texas Instruments should cover these costs.
28. After considering what has happened and the points raised by both Mr Y and Texas Instruments, I am satisfied that Texas Instruments' award of £500 to Mr Y, is sufficient for the loss of expectation caused by the 2016 CETV, which was only guaranteed for three months. If Mr Y wishes to accept Texas Instruments offer he should contact them direct.
29. Therefore, I do not uphold Mr Y's complaint.

**Anthony Arter**

Pensions Ombudsman  
11 July 2018