

Ombudsman's Determination

Applicant	Mr I
Scheme	Pension Insurance Corporation Annuity Policy (the Policy)
Respondent	Pension Insurance Corporation (PIC)

Outcome

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

Complaint summary

3. Mr I has complained that PIC has refused his request to transfer the value of the Policy to an alternative pension arrangement.

Background information, including submissions from the parties

4. In July 2015, Mr I was invited to take an enhanced transfer value from the Philips Pension Fund (**the Fund**). I understand that following this, Mr I was in contact with a financial adviser to investigate the option of transferring. The option to transfer was extended to 13 November 2015.
5. Mr I's defined benefits from the Fund were valued at approximately £42,000 taking account of the enhancement. In these circumstances, under Section 48 of the Pension Scheme Act 2015, in order to transfer, Mr I would need to seek advice from a financial adviser. If that financial adviser did not recommend the transfer, Mr I could still transfer, if he insisted, and assuming the receiving pension scheme agreed to accept the transfer against his adviser's advice.
6. On 22 October 2015, Mr I attained his normal retirement age under the Fund. At this point he became entitled to access his pension benefits.
7. On 13 November 2015, LEBC, the financial adviser to whom the Fund had referred Mr I, issued a suitability report informing Mr I that it did not recommend that he transfer. Instead, it recommended that he take benefits from the Fund. On receipt of this, Mr I took no action and in his son's words:

“he [Mr I] was under the impression that he would need to engage another IFA at this point.”

8. In January 2016, the Trustees of the Philips Pension Fund purchased, the Policy, a deferred annuity on Mr I’s behalf with PIC. The Policy documentation, in relation to transfers, confirms:

“2.12.2 If a Member wishes to transfer the value of their benefits under this Policy to another pension arrangement, they may request a transfer value quotation from PIC and the following will apply:

- (a) PIC shall not be obliged to provide a Member with a transfer value quotation if:
- (i) The Member has reached Normal Retirement Date or is due to reach Normal Retirement Date within twelve months of the date on which a request is made...”

9. In September 2016, Mr I’s new financial adviser, Breaks Wealth Management Ltd (**BWML**), requested a retirement pack from PIC.
10. On 19 October 2016, PIC provided the retirement pack to BWML, including a transfer out quotation. No transfer was requested following this retirement pack being issued.
11. On 11 July 2017, a new financial adviser contacted PIC to request details of Mr I’s benefits.
12. On 21 July 2017, PIC provided the requested information to the financial adviser, including a transfer value. On the same day, PIC spoke to the financial adviser, explaining that the transfer value should not have been provided because a transfer was not available to Mr I, as he was more than one year past his normal retirement age.
13. On 8 October 2017, Mr I responded, highlighting that he had made his intention to transfer clear over the previous years. On that basis he believed he should still be entitled to transfer.
14. On 12 October 2017, PIC responded to the complaint. It reiterated that Mr I no longer had a statutory right to transfer and whilst PIC allowed a discretionary transfer up to a year after normal retirement age, that had expired in October 2016.
15. Unhappy with the position, Mr I referred the complaint to this Office.

Adjudicator’s Opinion

16. Mr I’s complaint was considered by one of our Adjudicators who concluded that no further action was required by PIC. The Adjudicator’s findings are summarised below:-

- The Adjudicator concluded that Mr I had no statutory right to transfer. As the Fund was a defined benefit scheme, the statutory right to transfer had expired a year prior to his normal retirement age.
 - PIC had confirmed that it allowed a discretionary transfer up to a year after a policyholder's normal retirement age, in Mr I's case, up to 22 October 2016, however no formal transfer request had been made by that time. The Adjudicator had asked PIC whether this could be extended in Mr I's case, but it did not agree.
 - In the absence of a statutory right to transfer, PIC could not be compelled to accept Mr I's transfer request.
17. Mr I did not accept the Adjudicator's Opinion and the complaint was passed to me to consider. Mr I 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 I for completeness.

Ombudsman's decision

18. Mr I has argued that neither the Trustees of the Fund, nor PIC, ever provided him with the necessary forms in order to execute the transfer, despite having engaged a financial adviser. Additionally, neither the Fund or PIC informed Mr I that he could transfer on an insistent client basis.
19. With regard to Mr I's comments concerning the Trustees, they are not respondents to this complaint, so I cannot comment on what they may or may not have done at the time.
20. In respect of PIC, the issue centres on the events in October 2016. By this time, Mr I's statutory right to transfer had already expired and so any requested transfer would be on a discretionary basis. PIC has confirmed that it allows individual's in Mr I's position discretionary transfer rights up to one year after their normal retirement date.
21. BWML requested a retirement pack from PIC on Mr I's behalf, which was issued on 18 October 2016. In theory, had a transfer request been received immediately on issuance of the retirement pack, Mr I could have transferred prior to the expiry of the discretionary period, which expired on 22 October 2016. However, there is no evidence that PIC received a formal transfer request following the issuance of the retirement pack and it was unrealistic to think BWML could have properly advised him in the intervening period.
22. Mr I says PIC had not provided him with a form enabling him to instruct the transfer request. However, typically the process would be for the intended receiving scheme to write to PIC informing it that Mr I wished to transfer, confirming the details of the scheme to which the transfer would be made, accompanied by Mr I's instruction to transfer. It appears that the process never reached this stage, and no receiving

scheme had been identified, presumably because BWML was unable to recommend the transfer.

23. I appreciate Mr I had requested transfer values, on more than one occasion, but these requests do not constitute a request to transfer. By providing Mr I's IFA with the retirement pack and enclosed information, PIC had acted appropriately. The onus at that point was for the IFA to provide Mr I with the necessary advice.
24. On receipt of that advice, if Mr I was not happy with the recommendation given, he could have proceeded on an insistent client basis. However, it would not be PIC's responsibility to make Mr I aware of this, and it would be for the IFA to address any dissatisfaction with their recommendation and suggest alternative ways forward.
25. Mr I's statutory right, and discretionary option to transfer, have both expired. I am satisfied that PIC's actions were appropriate, and the decision to decline the transfer was not maladministration.
26. Therefore, I do not uphold Mr I's complaint.

Anthony Arter

Pensions Ombudsman
9 November 2018