

## Ombudsman's Determination

Applicant	Mr Y
Scheme	BAE Systems 2000 Pension Plan ( <b>the Plan</b> )
Respondent	BAE Pension Fund Trustees ( <b>the Trustees</b> )

## Outcome

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

## Complaint summary

3. Mr Y's complaint concerns the Trustees' decision not to pay the higher cash equivalent transfer value (**CETV**), Mr Y was quoted in October 2016.

## Background information, including submissions from the parties

4. Mr Y was a deferred member of the Plan. On 26 October 2016, the Administrators, on behalf of the Trustees, sent Mr Y a benefit information pack (**BIP**), which informed him that the CETV of his benefits was £423,901.12. Under the heading **Transfer Value**, on page four of the BIP, it said:

"The transfer value quoted below, excluding the SBS fund value, is guaranteed for a period of three months from the Calculation Date..."

The Calculation Date was 26 October 2016.

5. Page seven of the BIP provided details of the guaranteed period and under the heading entitled **Guaranteed period** it reiterated the period the guarantee was valid for and said:

"If you decide to proceed with the transfer, please arrange for the administrators of the new scheme to complete and return the enclosed **Transfer Acceptance Form**.

This must be returned to us together with your completed **Benefit Form, Risk Warnings Form** and your original Birth Certificate.

...

If we have not received these within the guarantee period, the transfer value will need to be recalculated.”

6. During a telephone call with the Administrators on 22 December 2016, Mr Y queried if the guaranteed period could be extended. He was informed that the three-month guaranteed period could not be extended. Therefore, if the paperwork was returned after the expiration of the guaranteed period, a new CETV calculation would have to be completed.
7. On 17 January 2017, Mr Y emailed the Administrators and said:

“It is my intention to accept the Transfer Value quoted on the basis that the final report from [my financial adviser] supports this decision. Can I request that you grant an extension to the current quotation given all the time and effort which has been put in by both myself and my Financial Adviser.”
8. On 19 January 2017, Mr Y sent a further email to the Administrators informing them that his financial adviser had agreed to the transfer. He also said “we are doing everything possible to have the information back with you before 26<sup>th</sup> January which will have been signed by me but may arrive with you a day or two late. I would be grateful if you can agree to hold the transfer value given everything will have been completed by myself and will be in [my financial adviser’s] final process steps of sending to you.”
9. On 26 January 2017, Mr Y faxed to the Administrators, copies of most of the documents required to facilitate the transfer. On page 19 of the returned paperwork, Mr Y wrote:

“Please do not transfer AVC fund at this stage.”

On page 12 of the said documents, under the heading entitled **Checklist**, Mr Y wrote that the Transfer Acceptance Form would be sent by his financial adviser.
10. On 6 March 2017, the Administrators sent Mr Y a letter regarding the request they had received from his financial adviser, for a potential pension transfer. On page two of the letter it said:

“We have also enclosed a Member questionnaire that must be completed by you and returned before any transfer can take place.”
11. The same day, the Administrators sent a new CETV quote to Mr Y’s financial adviser, which showed the CETV value of his benefits had been reduced to £405,720.38. The checklist of the required documents to facilitate the transfer, also included the Member questionnaire.
12. Mr Y’s pension was transferred in May 2017.
13. Unhappy that the CETV that was transferred, was lower than what he was originally quoted, Mr Y complained through the Plan’s internal dispute resolution procedure

(IDRP). In his complaint, Mr Y said that he had kept the Administrators informed of his intention to transfer by telephone and emails and that he had also informed it that the Transfer Acceptance Form was likely to arrive a few days late.

14. He considered that the Administrators treated him unfairly as the new CETV quote had a new requirement namely, the completion of a Member questionnaire. It was his view that, as the Member questionnaire was not included or requested with the first CETV quote and, it was not sent to him until after the expiration of the guaranteed period of the first quote, he could not have provided all of the required documents, prior to the expiration of the first quote. Therefore, he believed that the Administrators had sent him an incomplete BIP in October 2016.
15. Mr Y was also unhappy that the Administrators had not sent him the second CETV quote directly but had sent it to his financial adviser instead. Mr Y also asserted that the Administrators had removed the contents of a call between itself and his financial adviser.
16. In the IDRP stage one response dated 11 July 2017, the Trustees did not uphold Mr Y's complaint. It explained that Mr Y had not submitted all the required documents by the expiration of the guaranteed period, for the original CETV to be valid. The Trustees also explained that the Member questionnaire was not a requirement when the CETV quote was sent to Mr Y in October 2016. Therefore, he did not need to complete it for the transfer to proceed. It said the "reason that your 26 October [2016] transfer value did not proceed had nothing to do with the member questionnaire and so this has been considered as irrelevant.
17. The Trustees also explained why the second CETV quote was sent directly to Mr Y's financial adviser and it also explained why it did not consider the Administrators had removed the contents of a telephone call between itself and his financial adviser, to conceal information.
18. Dissatisfied with the IDRP response, Mr Y appealed through stage two of the IDRP. He believed that the Member questionnaire received with the second CETV but not the first, was an important document. Therefore, he maintained his stance that the original BIP he received from the Administrators was incomplete.
19. In the IDRP two response dated 30 November 2017, the Administration and Audit Committee (**the Committee**), did not uphold Mr Y's complaint. The Committee explained that the Trustees concluded no maladministration had taken place. The Committee reiterated what was said in the IDRP stage one and said that the Trustees decided that there were no grounds to change the original decision they made under stage one of the IDRP.
20. Dissatisfied with the IDRP responses, Mr Y referred his complaint to this Office.

## Adjudicator's Opinion

21. Mr Y's complaint was considered by one of our Adjudicators who concluded that no further action was required by the Trustees. The Adjudicator's findings are summarised briefly below:-

- The Administrators were acting on the Trustees' behalf, when they sent Mr Y the CETV quotes.
- The information Mr Y received with the original CETV, clearly informed him that the CETV was only valid for three months and that the transfer could only be completed within that time, if the required documents were returned.
- The Adjudicator appreciated that Mr Y had made his intention to transfer clear to the Administrators in January 2017, which was prior to the expiration of the guaranteed period. However, he was informed, prior to this date, in writing and verbally, that the guaranteed period could not be extended and that if the required documents were received after the guaranteed period, a new CETV quote would need to be calculated.
- The Transfer Acceptance Form was signed by Mr Y's financial adviser and returned to the Administrators after the expiration of the guaranteed period. In the Adjudicator's opinion, as all the required documents were not received before the guaranteed period expired, there was no maladministration by the Administrators or the Trustees for not allowing Mr Y to transfer his benefits with the higher CETV.
- The Adjudicator accepted that the Member questionnaire was not included in the original BIP Mr Y received in October 2016. However, in her view, although the Administrators included the Member questionnaire as a requirement in the revised CETV quote, that did not mean that there was maladministration by the Administrators because it was not included in the original CETV. In the Adjudicator's opinion, the Administrators were entitled to update their requirements for a transfer to be allowed, if they believe they needed to do so.
- Mr Y's CETV was not recalculated because he had failed to return the completed Member questionnaire. It had to be recalculated because Mr Y had not returned all the required information to facilitate the transfer prior to the expiration of the guaranteed period in the first CETV quote.
- Therefore, while the Adjudicator understood Mr Y's disappointment that the recalculation of his CETV resulted in a lower value, she did not consider this resulted from any maladministration by the Administrators or the Trustees. Consequently, it was her opinion that this complaint should not be upheld.

22. Mr Y did not accept the Adjudicator's Opinion and in response made the following comments:

- In a letter from the Administrators dated 15 February 2017, the Administrators were still requesting information from him and his financial adviser, in relation to the first CETV. This was after the expiration of the guaranteed period. Therefore, he and his financial adviser viewed this as a positive sign that the Administrators were happy and was moving forward with the transfer of the first CETV.
- In March 2017, his financial adviser had contacted the Administrators to enquire about the status of the first CETV as he and his financial adviser had believed that the transfer was going ahead because they had no knowledge of the second CETV.
- Therefore, it is without a doubt that, the letter dated 6 March 2017, in response to his financial adviser's enquiry for an update on the first CETV, clearly related to the first quote. The Administrators asked for the Member questionnaire to be completed before the transfer could take place.
- Why would the request for Member questionnaire relate to the second quote, issued on 6 March 2017, which already contained the requirement for the Member questionnaire to be provided?
- In the IDRП response dated 11 July 2017, the Trustee does not contest that the letter dated 6 March 2017, asking for the completion of the Member questionnaire, was in relation to the first CETV.
- He finds it extraordinary that the Administrators' letter dated 6 March 2017, with the clear statement that the Member questionnaire had to be completed, can now be deemed as irrelevant. It is a complete contradiction to its letter to him.
- His view remains that the Administrators are guilty of maladministration and that the first CETV could not be completed before the expiration of the guaranteed period, because of this error. Therefore, his complaint should be upheld.

23. The complaint was passed to me to consider. I agree with the Adjudicator's Opinion and I will therefore only respond to the key points made by Mr Y for completeness.

### **Ombudsman's decision**

24. Mr Y maintains that, the first BIP pack he received in October 2016 was deficient because it did not include the Member questionnaire. He asserts that even if he had returned all the other documents prior to the expiration of the guaranteed period for the first CETV, his transfer would still not have gone ahead because the Member questionnaire, which the Administrators stated he needed to complete, was not sent to him until after the expiration of the first CETV.
25. I have reviewed the original CETV that the Administrators had sent Mr Y in October 2016. Page 12 of that CETV gives a list of the documents that needed to be returned prior to the expiration of the guaranteed period, for the transfer to be completed. The Member questionnaire was not listed as a required document.

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26. The Transfer Acceptance Form was listed as a required document but it was not returned to the Administrators until after the first CETV's guaranteed period had expired. This is the reason that Mr Y's CETV had to be recalculated.
27. Therefore, while I understand Mr Y's disappointment that the recalculation of his benefits resulted in a lower CETV, I do not find that this was due to the Administrators' maladministration.
28. Therefore, I do not uphold Mr N's complaint.

**Karen Johnston**

Deputy Pensions Ombudsman  
2 November 2018