

Ombudsman's Determination

Applicant	Mr N
Scheme	British Steel Pension Scheme (BSPS)
Respondent	B.S. Pension Fund Trustee Limited (the Trustee)

Outcome

1. Mr N's complaint is upheld and, to put matters right, the Trustee shall contact the receiving scheme and ask it to calculate the notional current fund value on the basis that the original transfer value had been paid on 7 February 2018. The Trustee shall compare this with the actual current fund value and pay the difference into the receiving scheme. It shall also make a payment of £500 to Mr N in recognition of the significant distress and inconvenience caused.

Complaint summary

2. Mr N requested a cash equivalent transfer value (**CETV**) quotation. This was issued to him within the statutory timeframe; however, he did not receive it. He attempted to contact the BSPS Administrator (**the Administrator**), on multiple occasions, to chase the CETV quotation, but he received no response. As a result, the deadline for accepting the CETV elapsed and Mr N was unable to transfer-out of the BSPS on those terms.
3. Later that year, Mr N received a new CETV and transferred-out of the BSPS. However, the CETV quoted had reduced. Mr N argues that the transfer should have been paid in accordance with the original CETV.

Background information, including submissions from the parties

4. On 28 June 2013, Mr N resigned from his employment with Tata Steel UK Limited and became a deferred member of the BSPS.
5. On 30 August 2017, Mr N requested a CETV quotation.
6. On 29 September 2017, Mr N emailed the Administrator requesting an update on his CETV quotation.

7. On 16 October 2017, Mr N repeated his request for a CETV quotation and, in addition, asked for a benefit quotation.
8. From October 2017, the Trustee began its "Time to Choose" exercise in which members were asked whether they would like to transfer to the new scheme (the new BPS) or remain in the BPS and enter the Pension Protection Fund. This process took some time and the new BPS did not commence until April 2018.
9. On 7 November 2017, the Administrator wrote to Mr N enclosing a CETV quotation. The CETV quoted was £26,635.33, which was guaranteed for three months from the date of issue. The Administrator also said that, "members more than one year before Normal Pension Age have a statutory entitlement to one transfer quotation in any 12-month period."
10. Mr N said that he did not receive this letter.
11. On 19 December 2017, the Administrator wrote to Mr N and said:

"We are writing to you because you are currently in receipt of an unexpired BPS Defined Benefit Transfer Quotation and the Pensions Regulator, the Financial Conduct Authority, and The Pensions Advisory Service have asked the Trustee to forward to you a letter which contains important information for you to consider when reaching a decision on whether to transfer your benefits to another pension arrangement."
12. On 4 January 2018, Mr N attempted to telephone the Administrator, but the line was engaged. He said that he tried on several occasions. On the same day, he wrote to the Administrator and confirmed that he had not received a CETV quotation.
13. On 1 February 2018, Mr N attempted to telephone the Administrator, but he was unable to get through. Mr N sent an email to the Administrator. He explained that he had not received his CETV quotation. He said that he needed that information in order to decide whether or not he should transfer out of the BPS.
14. On 9 February 2018, Mr N made another telephone call to the Administrator. Again, he could not get through. Consequently, Mr N raised a customer service complaint. He explained that he had not received a CETV quotation despite having chased it on several occasions.
15. On 14 February 2018, the Administrator confirmed that Mr N's CETV quotation had been sent to him on 7 November 2017. It explained that the expiry date (7 February 2018) had now passed, and that, in line with his statutory entitlement, only one CETV quotation would be issued in any twelve-month period. As a result, Mr N was unable to proceed with the transfer of his benefits out of the BPS. However, Mr N had agreed to move to the new BPS, so once the move was completed, in March 2018, he would be able to request another CETV quotation. It apologised for not responding to his request for a benefits quotation and explained that it had been experiencing

extremely high levels of member engagement as a result of the “Time to Choose” exercise.

16. On 19 February 2018, Mr N made additional comments. He accepted that he had previously expressed a wish to move to the new BSPS; however, he did so on the understanding that, prior to the change, he would have an option to transfer to another scheme. He did not receive the CETV quotation he requested, so he had been unable to consider a transfer.
17. On 20 February 2018, the Trustee responded to Mr N's complaint. It said that it had been unable to respond to member queries as quickly as it would normally would and accepted that its phonelines had often been engaged. It said that it received Mr N's request for a CETV quotation on 30 August 2017 and responded on 7 November 2017; so, it acted within the statutory requirements. Consequently, it did not agree that Mr N has suffered financial loss.
18. On 9 March 2018, the Trustee wrote to Mr N and explained that it could not provide a benefit quotation as the calculation method was due to change when the new BSPS came into effect.
19. In April 2018, the new BSPS commenced and Mr N transferred into it. As a result, he was able to request a new CETV quotation.
20. On 6 June 2018, Mr N transferred his benefits out of the new BSPS. The CETV was £24,568.22, which was £2,067.11 less than the CETV quotation provided in November 2017.
21. On 4 September 2018, the Trustee wrote to Mr N. It said that the CETV quotation was correctly issued to Mr N and there was no evidence of maladministration on the part of the Administrator.
22. On 7 December 2018, the Trustee issued its response to the complaint against it. It said that it issued the CETV quotation in accordance with the statutory timescales. Furthermore, the CETV quotation was sent to the correct address and the Trustee could not be responsible for the post once it had left its office. It did accept that there were delays in responding to Mr N's concerns; however, it said that this was a result of the extremely high volume of member queries during this period.
23. Mr N confirmed that he transferred his benefits into a cash scheme. He said that he suffered a financial loss equivalent to the difference between the November CETV quotation and the actual amount paid.

Adjudicator's Opinion

24. Mr N's complaint was considered by one of our Adjudicators who concluded that there was maladministration that had potentially caused Mr N financial loss. The Adjudicator's findings are summarised below:-

- The CETV was issued within the statutory timescales and sent to the correct address; so, there was no maladministration at the point it was issued.
- However, the Adjudicator was of the view that there was maladministration in the way the Administrator responded to Mr N's requested updates. Mr N did not receive the CETV quotation; so, he attempted to call the Administrator to request a copy. Despite several attempts, he could not get through, so he wrote to the Administrator requesting a response to his CETV request. This was sent over a month before the deadline to accept the transfer.
- The Adjudicator was of the view that the Administrator had ample opportunity to provide Mr N with the information he requested. The Adjudicator said that Mr N's request was not something that would have been difficult to progress, essentially all that was required was to re-issue the CETV quotation. The Adjudicator believed that the lack of response amounted to maladministration.
- Although the Administrator argued that it was exceptionally busy during the "Time to Choose" exercise, the Adjudicator believed that it should have foreseen the increase in work volumes. As a result, he did not agree that there were sufficient reasons for the delay in re-issuing the CETV quotation.
- Mr N's CETV quotation was less than £30,000, so he did not require financial advice in order to transfer out of the BSPS. He has stated that his priority was to transfer prior to the commencement of the new BSPS. He said that, as time was of the essence, he would have completed the transfer without taking financial advice.
- The Adjudicator was of the view that, had the Administrator responded to Mr N's request of 4 January 2018, within a reasonable timeframe, Mr N would have been able to provide his transfer out documents by the CETV expiry date. As a result, the Adjudicator was satisfied that the Administrator's maladministration caused Mr N to miss his opportunity to transfer-out of the BSPS in accordance with the November quotation. This caused potential financial loss as, by the time he was able to receive a second CETV quotation, the value had decreased by £2,067.11.
- The Adjudicator was of the opinion that the distress and inconvenience caused by the maladministration was significant.
- To put matters right, the Adjudicator recommended that the Trustee should contact the receiving scheme and ask it to calculate the notional current fund value, on the basis that the original transfer value had been paid on 7 February 2018. The Trustee should compare this with the actual current fund value and pay the difference into the receiving scheme. It should also make a payment of £500 to Mr N in recognition of the significant distress and inconvenience caused.

25. The Trustee did not accept the Adjudicator's Opinion and argued:-

- It had complied with all of its legal obligations in relation to the provision of a transfer quotation to Mr N.
- Its actions did not amount to culpable maladministration.
- It cannot be blamed for the magnitude of the surge in requests for CETV quotations and payments. It did everything it could to resource the demands placed upon the Administrator during this period.
- Its actions were not the main contributory factor as to why Mr N could not accept his CETV. Therefore, it was incorrect for the Trustee to be responsible for the financial loss Mr N has suffered as a result.

26. The complaint was passed to me to consider. I note the points made by the Trustee, however, I agree with the Adjudicator's Opinion.

Ombudsman's decision

27. The Trustee has argued that it met its legal obligations when it issued the CETV quotation. In his Opinion, the Adjudicator accepted that there was no maladministration in the handling of the original CETV request. So, there is no dispute relating to the original provision of the CETV quotation.

28. However, I agree with the Adjudicator's view that there was maladministration in the handling of Mr N's request for an update. Mr N said that he did not receive the original CETV quotation and I have seen no evidence to the contrary. I agree that the Trustee cannot be held responsible for any failings in the postal system. But, prompted by the Administrator's letter of 19 December 2017, Mr N chased the CETV quotation in writing on two separate occasions before the expiry date. The Administrator did not respond to either of these requests and I consider this amounts to maladministration.

29. The Trustee has also sought to argue that there "cannot be maladministration for the Trustee to fail to provide a document to a member, in circumstances where the Trustee has no legal duty to provide that document to the member in the first place." I disagree. The Trustee has a duty to act in the interests of the beneficiaries, by failing to respond to a request for a copy of the CETV quotation within a reasonable timeframe, I find that it failed to comply with this duty.

30. I also disagree with the Trustee's argument that it cannot be at fault for failing to respond to the request because it experienced an unprecedented level of member interaction during its "Time to Choose" exercise. It has said that it brought in as much additional administrative resource as it was able to; so, it could not have done any more in anticipation of a surge in enquiries. However, the maladministration in this case involves a failure to re-issue a CETV quotation. Re-issuing a letter does not require specialist skills, so it should have been within the Trustee's power to scale up

its operations to ensure that this type of request was dealt with promptly. Consequently, I find the Trustee responsible for the delay which caused Mr N to miss his deadline for accepting the CETV.

31. The Trustee has argued that its inaction was not the main factor which caused Mr N to miss the CETV deadline. As a result, it does not agree that it should be found culpable for any financial loss that followed. I am not persuaded by this argument. It is true that the Trustee cannot be held responsible for the failure of the original CETV quotation to reach Mr N. However, the Administrator failed to respond to Mr N's request for a copy of the CETV promptly. The delays Mr N experienced caused him to miss the deadline for accepting the CETV. So, I am satisfied that the maladministration caused the financial loss.
32. With regards to non-financial loss, it is clear that Mr N had to chase the Administrator on multiple occasions and frustratingly, only received a response when it was too late to transfer. This would have caused Mr N significant distress and inconvenience; so, I award Mr N £500 in recognition of this.
33. I uphold Mr N's complaint.

Directions

34. The put matters right, the Trustee shall, within 28 days of the date of this Determination:-
 - contact the receiving scheme and ask it to calculate the notional current fund value, on the basis that the original transfer value had been paid on 7 February 2018;
 - compare this value with the actual current fund value and, if the notional value is greater, pay the difference into the receiving scheme; and
 - pay £500 direct to Mr N for the significant distress he has experienced.

Anthony Arter

Pensions Ombudsman
10 August 2020