

Ombudsman's Determination

Applicant	Mrs R
Scheme	Lloyds Your Tomorrow Pension Scheme (the Scheme)
Respondents	Willis Towers Watson (WTW) The Trustees of the Lloyds Your Tomorrow Pension Scheme (the Trustee)

Outcome

1. I do not uphold Mrs R's complaint and no further action is required by WTW or the Trustee.

Complaint summary

2. Mrs R has complained that she was led to believe she would receive a tax-free cash lump sum of £16,689.88, but she only received £12,625.02.

Background information, including submissions from the parties

3. On 18 July 2017, Mrs R began exploring the possibility of taking an uncrystallised funds pension lump sum (**UFPLS**). UFPLS allows a member to withdraw some of their uncrystallised funds as a lump sum, within the limits of the lifetime allowance.
4. Details of Mrs R's pension options were sent to her on 19 July 2017.
5. On 29 August 2017, Mrs R enquired about the flexible retirement option, WTW sent her an additional form.
6. Mrs R completed the forms choosing option 3a (25% tax free cash) and option 4 (flexible retirement option) and returned the forms to WTW on 23 September 2017.
7. WTW emailed Mrs R on 24 October 2017 and requested clarification on the decision that she was making. It asked her to complete the paperwork accordingly.
8. Mrs R telephoned WTW and discussed the options available to her. She was told that regardless of the amount she took, 25% would be tax free and 75% would be taxed. Mrs R has said she then asked whether the UFPLS would be tax free and was told yes.

9. On 15 November 2017, WTW wrote to Mrs R with a breakdown of the lump sum payment and the tax deductions, it said the following:

Lump sum payment (taxable):	£12,517.41
Lump sum payment (non-taxable):	£4,172.47
Total lump sum:	£16,689.88
Deductions:	£4,064.86
Amount paid:	£12,652.02

10. Mrs R raised a complaint over the telephone as she did not understand why her lump sum payment had been subject to tax, as she had been told she could take 25% tax free.
11. In the telephone conversation, WTW said a further payment of £4,064.86 would be made, but this was incorrect.
12. Mrs R then made a complaint in writing once she found out that there were no further payments to be made.
13. WTW said that 25% of Mrs R's pension had been settled and the amount paid was in accordance with the signed flexible retirement instructions it received. WTW also said that deductions of tax are a regulatory requirement of Her Majesty's Revenue and Customs (**HMRC**) and there was no degree of discretion that could be applied. It said Mrs R could choose to take her benefits under the flexible retirement option, but that, however much she took, 25% would be tax free and the remaining 75% would be taxed. WTW said the information provided had been consistent.
14. Mrs R remained dissatisfied and took her complaint through both stages of the Scheme's internal dispute resolution procedure (**IDRP**). The Trustee offered Mrs R £500, at stage two of the IDRP, because it acknowledged that some of the information given by WTW over the telephone was misleading. Mrs R did not accept the offer of £500.

Adjudicator's Opinion

15. Mrs R's complaint was considered by one of our Adjudicators who concluded that no further action was required by WTW or the Trustee. The Adjudicator's findings are summarised below:-
- The information provided to Mrs R could have been clearer, but Mrs R is in the correct position that she ought to be in. The flexible retirement benefits she received were subject to tax. Therefore, it was correct for WTW to apply tax in accordance with HMRC guidance.

- It was unhelpful that WTW added additional confusion to matters after the payment was made, when it said a further payment would be made. The confusion and incorrect information would have caused significant distress and inconvenience.
 - The Trustee offered £500 for the significant distress and inconvenience, which was reasonable in the circumstances.
16. Mrs R did not accept the Adjudicator's Opinion and the complaint was passed to me to consider. Mrs R provided her further comments which do not change the outcome. I agree with the Adjudicator's Opinion and I will only respond to the points made by Mrs R for completeness.
17. Mrs R said that she did not accept the £500 offered by the Trustee as she did not believe it adequately compensated her for the distress and inconvenience caused. She also said WTW provided her with incorrect information over the telephone, she wanted to know why this incorrect information was given.

Ombudsman's decision

18. Mrs R has complained that she was told she would not pay tax on the UFPLS.
19. During a telephone conversation, Mrs R has said she asked WTW if her lump sum would be taxed, and it informed her that it would not be taxed. I do not have any evidence of this telephone conversation other than Mrs R's account.
20. In another telephone conversation with WTW, WTW informed Mrs R that in addition to the £12,652.02 already paid to her, she would receive a further £4,172.47. This information was incorrect and amounted to maladministration.
21. While it would appear Mrs R received incorrect information twice, (although it is not possible to independently verify the first occasion), this does not mean that she should not be subject to the tax. If she did not pay the tax at this point, HMRC would eventually contact her and ask for the payment to be made.
22. I understand Mrs R would like an explanation as to why she was given incorrect information, but this will not change the outcome for her. The UFPLS was subject to tax and it was right for WTW to put her in the correct position, even though incorrect information was provided, certainly on at least one occasion.
23. Mrs R has said that she will not accept the offer of £500 for the significant distress and inconvenience she has suffered. While I accept her position in this regard, based on the circumstances of this matter, I do not find that a higher award is warranted. The Trustee's acknowledgement of WTW's error and its offer of redress are sufficient. So, I will not direct WTW or the Trustee to award a higher amount.

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24. I do not uphold Mrs R's complaint.

Anthony Arter

Pensions Ombudsman
10 December 2019