

Ombudsman's Determination

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

Outcome

1. I do not uphold Mr N's complaint and no further action is required by the Trustee.

Complaint summary

2. Mr N has complained about the delays he experienced when transferring his benefits. He said the delays were outside of his control, causing him financial and non-financial loss.

Background information, including submissions from the parties

Time to Choose background

3. Around the time of this complaint, the British Steel Pension Scheme (**the BSPS**) completed its Time to Choose exercise.
4. On 28 March 2018, following a bulk transfer from the BSPS and its entering into a Pension Protection Fund (**PPF**) assessment period, the BSPS changed its name to the Old British Steel Pension Scheme (**the OBSPS**).
5. In the run up to this change, members of the OBSPS were given the opportunity to transfer benefits into a replacement scheme, the New BSPS. This was called the Time to Choose exercise. During the Time to Choose exercise, Mr N elected to join the New BSPS. So, from 28 March 2018, he was a member of the New BSPS.

Background

6. The sequence of events is not in dispute, so I have only set out the key points. I acknowledge there were other exchanges of information between all the parties.
7. On 14 July 2017, Mr N requested a Cash Equivalent Transfer Value (**CETV**) from the OBSPS.

8. On 22 September 2017, the OBSPS provided a guaranteed CETV statement for £864,894.46 (**the September CETV illustration**). The CETV was valid for the statutory period of three months and expired on 22 December 2017. The September CETV illustration also included transfer paperwork. This included the following wording:

“The Scheme Trustee cannot transfer benefits until they have received from the member a written request to transfer and checked that appropriate independent advice has been obtained from an FCA authorised adviser.

The Trustee must ensure that the member has provided the Scheme with a signed confirmation from their adviser.”

9. On 4 December 2017, the OBSPS administrator (**the Pensions Office**) wrote to members, including Mr N, who were in receipt of an illustration of a CETV due to expire on or before 25 January 2018. It said it had extended the expiry date of the CETV until 26 January 2018 and that this extension was provided on a non-statutory basis.
10. On 20 December 2017, the Pensions Office received some of Mr N’s transfer paperwork. This was supplied by Old Mutual Wealth, which was acting on behalf of the receiving Scheme. However, the required identification documentation and confirmation that he had received financial advice, were not included.
11. On 4 January 2018, Old Mutual Wealth contacted the Pensions Office and asked for an update on the transfer. It was told that the Pensions Office could not provide individual transfer updates at the time, and it was currently taking two months to process transfers. It also said that it would be in contact if there was anything outstanding.
12. On 25 January 2018, Old Mutual Wealth sent an email to the Pensions Office and asked for an update on the progress of the transfer.
13. On 26 January 2018, the non-statutory guarantee period expired.
14. On 14 February 2018, the Pensions Office responded to Old Mutual Wealth and said:

“In order to process the transfer, we require the following:

- Utility bill (dated within the last 6 months) confirming your [Mr N’s] current address.
- ID (copy of page of passport containing personal details/driving licence/birth certificate).
- Member discharge form.
- Letter confirming that financial advice has been provided (full requirements can be found on the member’s TVQ).”

15. On 21 February 2018, Old Mutual Wealth provided most of the necessary documentation. However, it did not provide written confirmation that Mr N had obtained financial advice in relation to his transfer.
16. On 28 February 2018, 14 March 2018 and 20 March 2018, Old Mutual Wealth emailed the Pensions Office and asked for updates. These emails did not receive a response.
17. CETVs paid from the New BSPS could be significantly lower than those paid from the OBSPS, because benefits in the New BSPS were likely to be lower. However, under an agreement between the Trustee, the Trustee of the OBSPS and Tata Steel UK Limited (the sponsoring employer), arrangements were made for members who had submitted valid transfer requests, prior to 29 March 2018, to be paid CETVs in accordance with the OBSPS.
18. In order to be paid a CETV calculated as if from the OBSPS, members had to complete a Member Declaration form which confirmed that they wished to be paid in accordance with the CETV calculation basis applicable to the OBSPS (**the old CETV calculation basis**).
19. On 11 April 2018, Mr N signed a Member Declaration form which confirmed that he wished for his CETV to be paid on the old CETV calculation basis. The Member Declaration stated:

“I wish to proceed with my transfer request and I hereby authorise the Trustee of the new Scheme to pay the Transfer Value (as set out in the Defined Benefit Transfer Value Quotation issued to me from the Old Scheme) in accordance with the transfer instructions previously given by me to the Old Scheme...”
20. On 26 April 2018, Old Mutual Wealth contacted the Pensions Office and requested an update.
21. On 10 May 2018, the Pensions Office wrote to Mr N’s Independent Financial Advisor (**IFA**) and requested written confirmation that Mr N had obtained financial advice in connection with his transfer request.
22. On 11 May 2018, Mr N’s IFA provided a copy of a letter that confirmed that Mr N had received financial advice. The letter was dated 19 February 2018, however the Pensions Office said that it did not have any record to show that this letter had been received at the time.
23. On 14 May 2018, Mr N’s CETV was paid to Old Mutual Wealth. The CETV paid was the value quoted in the September CETV illustration.

Mr N’s position

- He, his IFA, and Old Mutual Wealth found it difficult to get updates from the Pensions Office.

- Payment of his CETV was delayed due to errors within the Pensions Office. He provided a timeline of events, that was supplied by Old Mutual Wealth; this said that, on 14 February 2018, the Pensions Office only requested a utility bill and passport. He said that he was of the view that all requests for information received from the Pensions Office were responded to within good time.
- The delay constituted maladministration which caused him to suffer financial loss as well as stress and inconvenience.

The Trustee's position

- The Time to Choose exercise resulted in a high volume of member queries into the Pensions Office and there was also a surge in transfer activity for an extended period.
- There were a significant number of e-mails received from both Mr N's IFA and Old Mutual Wealth seeking confirmation of what documentation they had provided and updates as to when payment may be expected. The Trustee acknowledged that the Pensions Office communications were not at their usual level, however the necessary documentation requirements had already been outlined within the transfer documentation.
- Mr N, Old Mutual Wealth and his IFA had been fully advised of all the documentation that was required. In addition, on 14 February 2018, the Pensions Office wrote to Old Mutual Wealth to reiterate what information was required, this included the requirement for confirmation that Mr N had received financial advice. The Pensions Office did not receive such a confirmation until 11 May 2018. So, it should not be held responsible for the delay.

Adjudicator's Opinion

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

- The September CETV illustration included transfer paperwork, which showed what was required in order for the CETV to be paid. When the transfer paperwork was initially returned, around 20 December 2017, it was incomplete. The Adjudicator was of the view that this contributed to the delay.
- From 4 January 2018, Mr N, and Old Mutual Wealth, chased the Pensions Office to see what information was outstanding. The Pensions Office was slow to respond but, on 14 February 2018, it clearly outlined the information that was required, which included confirmation that financial advice had been obtained.
- On 21 February 2018, Old Mutual Wealth provided most of the necessary documentation but, again, failed to submit confirmation that Mr N had received financial advice.

- Confirmation of financial advice was not supplied until 11 May 2018. So, a significant portion of the delay cannot be attributed to the Pensions Office.
 - The Adjudicator did not agree that the issues in contacting the Pensions Office amounted to maladministration that caused financial loss. He accepted the Pensions Office was slow to respond to some of the representatives' requests for information. The Adjudicator also acknowledged that some of the requests were ignored. In particular, the Adjudicator recognised that it took over a month, between 4 January 2018 and 14 February 2018, for the Pensions Office to respond to a query. However, the information that was outstanding had previously been referenced by the Pensions Office as being required in the September CETV illustration. So, the Adjudicator was not satisfied this amounted to maladministration.
 - The Pensions Schemes Act 2015, makes it a statutory requirement for anyone receiving a CETV of over £30,000, to have received financial advice before the transfer is paid. Consequently, the Adjudicator was satisfied that Mr N's IFA should have known what was required and it was responsible for ensuring that all required information was supplied.
 - On 14 February 2018, Old Mutual Wealth was told that, in order for the transfer to be completed, the Pensions Office required confirmation that Mr N had received financial advice. This information was not supplied until almost three months later. This delay cannot be attributed to the Pensions Office.
25. Mr N did not accept the Adjudicator's Opinion and the complaint was passed to me to consider.
26. Mr N provided his further comments which do not change the outcome. He said that:-
- He shared the Opinion with his IFA who said that it was not in its interests for any transfer to be delayed. His IFA said that it had attempted to engage and communicate with the Pensions Office but was unable to get through to any telephone operators. It said that the Trustee had failed to anticipate demand for services and this failure was the root cause of the delay.
 - He had also attempted to telephone the Pensions Office but had suffered similar problems to those encountered by his IFA.
 - He had also shared the Opinion with Old Mutual Wealth (now rebranded as Quilter). It said that Mr N's identification documents and confirmation of advice were not included in any of the documents received from his IFA. It said that it had completed the receiving scheme section of the transfer pack and had passed it on to the Pensions Office. It reiterated that it was not Mr N's representative, so it was not responsible for the contents of the submissions, it had only completed the sections it was responsible for.

27. I note the additional points raised by Mr N, however, I agree with the Adjudicator's Opinion.

Ombudsman's decision

28. I can only uphold a complaint where I am satisfied that there has been maladministration that has caused financial or non-financial loss.
29. The September illustration included transfer paperwork, which outlined what was required in order for a transfer to be paid. When Old Mutual Wealth initially returned the transfer paperwork, around 20 December 2017, it was incomplete. The submissions did not include Mr N's identification information or confirmation that Mr N had received financial advice. This was clearly a significant factor in the delay. I do not find the Trustee responsible for this, it was up to Mr N and his IFA to ensure the correct documents were supplied.
30. Old Mutual Wealth, in its role as receiving scheme, chased the Pensions Office for an update on 4 January 2018. On 14 February 2018, the Pensions Office responded and told Old Mutual Wealth what information was still outstanding. I appreciate that it took over a month for this response to be issued. However, confirmation that Mr N had received financial advice was not supplied until 11 May 2018, almost three months later. With this in mind, I find that the majority of the delay is associated with the failure of Mr N to provide the necessary information.
31. In addition, the Pensions Schemes Act 2015, makes it a statutory requirement for anyone receiving a CETV of over £30,000, to have received financial advice before the transfer is paid (see Appendix). As this is a statutory requirement, I would expect Mr N's IFA to understand such a confirmation was required. So, it should have been more careful to ensure that the confirmation that financial advice had been received was included within the returned transfer documentation.
32. I appreciate that Mr N, his IFA and Old Mutual Wealth experienced difficulties during their attempts to get updates from the Pensions Office. I understand this would have been frustrating, however the outstanding information had previously been requested and were fairly standard requirements. So, a check of its submissions would have informed Mr N, his IFA and Old Mutual Wealth of the documents that were outstanding.
33. The Trustee, the Trustee of the OBSPS and Tata Steel UK Limited, decided to allow members who had submitted valid transfer requests, prior to 29 March 2018, to be paid CETVs from the OBSPS. So, despite the fact that Mr N had not submitted full transfer paperwork before moving into the New BPS, Mr N received a CETV on the preferable OBSPS terms. There was no requirement, under legislation or the New BPS Rules, for the Trustee to offer to pay Mr N's CETV on the old CETV calculation basis. In making this offer, and in paying the OBSPS CETV value, the Trustee went beyond what was required of it and I do not consider that Mr N has suffered a loss.

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34. Although I appreciate it was difficult for Mr N to get through to the Pensions Office, I do not find the Trustee responsible for the delays Mr N experienced in transferring out of the New BPS.

Anthony Arter

Pensions Ombudsman
15 March 2022

The Appendix

The Pensions Schemes Act 2015 (Transitional Provisions and Appropriate Independent Advice) Regulations 2015

Form of confirmation of appropriate independent advice

7. Confirmation from the member or survivor that appropriate independent advice has been received must be in the form of a statement in writing from the authorised independent adviser providing the advice confirming—

(a) that advice has been provided which is specific to the type of transaction proposed by the member or survivor;

(b) that the adviser has permission under Part 4A of the Financial Services and Markets Act 2000, or resulting from any other provision of that Act, to carry on the regulated activity in article 53E of the Regulated Activities Order;

(c) the firm reference number of the company or business in which the adviser works for the purposes of authorisation from the FCA to carry on the regulated activity in article 53E of the Regulated Activities Order; and

(d) the member's or survivor's name, and the name of the scheme in which the member or survivor has subsisting rights in respect of safeguarded benefits to which the advice given applies.