

Ombudsman's Determination

Applicant	Mrs T
Scheme	Lloyds Bank Pension Scheme No. 1 (the Scheme)
Respondents	Lloyds Banking Group Pensions Trustees Limited (the Trustees) Willis Towers Watson (WTW)

Outcome

1. Mrs T's complaint is partly upheld and to put matters right the Trustees and WTW shall award Mrs T £1,000 in recognition of the serious distress and inconvenience which she has experienced dealing with this matter.
2. My reasons for reaching this decision are explained in more detail below.

Complaint summary

3. Mrs T complains that she has suffered a significant financial loss because WTW and the Trustees are refusing to honour the higher (incorrect) guaranteed cash equivalent transfer value (**CETV**) of £414,397.39 quoted on 3 July 2017 and have paid a lower (correct) value quoted on 12 July 2017 of £373,090.59 into her new pension scheme. She is also unhappy that her subsequent complaint was not properly considered under the Scheme's Internal Dispute Resolution Procedure (**IDRP**).
4. To put matters right, she would like WTW and the Trustees to compensate her by at least paying an additional £41,306.80, representing the difference between the two figures quoted, into her new pension arrangement.

Background information, including submissions from the parties

5. In April 2017, Mrs T asked WTW to provide her with an illustrative CETV of the benefits available to her from the Scheme whilst still an active member.
6. WTW replied that the requested figure was £401,142 but she had to opt out of the Scheme first and obtain a guaranteed CETV if she wished to transfer her benefits to another pension scheme. WTW also informed Mrs T that:

- opting out would be entirely at her own risk and she would not be able to re-join the Scheme;
 - the calculation of her CETV was linked to the performance of financial markets and was therefore subject to change; and
 - her actual guaranteed CETV could therefore be higher or lower than the non-guaranteed illustrative figure
7. Mrs T requested an opt out form (**the Form**) from WTW and returned it duly completed on 25 April 2017 after, she says, having sought advice from an independent financial adviser (**IFA**). As described on the Form, her official date of leaving (**DOL**) the Scheme was therefore 31 May 2017 because Lloyds Banking Group's payroll team (**LBG Payroll**) needed a complete month to stop deducting contributions from her pay and notify WTW that she had left the Scheme.
8. In the meantime, Mrs T asked WTW to check the pensionable salary figures held on its records which were lower than she expected. WTW referred her enquiry to LBG Payroll and on receipt of its reply, provided Mrs T with relevant details on 12 May 2017. Mrs T disagreed with the figures supplied by LBG Payroll because "they seem to be getting mixed up and quoting FTE (full time equivalent) figures which are actually my part time salary". She sent WTW on 16 May 2017 copies of documentary evidence to prove that LBG Payroll's figures were wrong and that her "salary increased in December 2010 from the FTE of £20,084 to £26,620". She also asked WTW to deal with this issue as soon as possible so that her guaranteed CETV could be calculated correctly.
9. On 23 May 2017, WTW informed Mrs T that it was unable to update its records with the salary information which she had provided "without confirmation from payroll" and referred the matter to LBG Payroll to deal with urgently.
10. On 24 May 2017, WTW sent to Mrs T details of the deferred pension available to her calculated using the pensionable salary information held on its records at that time. WTW has admitted that it should not have done this because it was still awaiting confirmation from LBG Payroll of her correct salary history.
11. On 9 June 2017, Mrs T sent WTW an e-mail which said that:
- "I have been querying my salary figures listed on the portal for some weeks now...I am worried that the delay in confirming my salary will affect my pension figure. I have been on the portal and obtained a transfer figure of £413,432.69. Please can you confirm that if the delay in verifying my salary has a detrimental effect on my transfer value by the time the salary figures are updated that this will not have a negative effect on my transfer value?
- ...I know that the present figure is valid until 7/9/2017, can you advise if this can be extended if necessary due to it not being a fault of mine?"

12. WTW replied on 12 June 2017 that it had asked LBG Payroll for an update. It also told her that:
 - it could not extend the guarantee end date of the transfer quotation she produced online; and
 - once LBG Payroll had replied, it would confirm her correct final pensionable salary and she “will then be able to run another quotation online or we can issue one for you”.
13. During the remainder of June, Mrs T contacted WTW several more times to query the pensionable salary figures held on its records and on 29 June 2017, additionally questioned her part time working hours which WTW referred to LBG Payroll on the following day.
14. On 3 July 2017, WTW sent to Mrs T a “statement of entitlement to guaranteed cash equivalent” (**the Statement**) showing the deferred pension benefits available to her and a guaranteed CETV of £414,397.39. It transpired, however, that WTW had failed to update its records to show Mrs T’s correct pensionable salary and part time working hours before preparing this statement resulting in higher incorrect figures being shown on it.
15. WTW provide Mrs T with a revised statement on 12 July 2017 showing a lower guaranteed CETV of £373,090.59. In an e-mail dated 14 July 2017 (relevant paragraphs have been reproduced in the Appendix below), it apologised for its error and explained why her deferred pension and guaranteed CETV figures had reduced on recalculation. WTW also confirmed that the estimated CETV provided in April 2017 and the further CETV she had obtained via the online portal in June 2017 were also calculated using an incorrect pensionable salary and part time information. In recognition of the poor administration service provided, WTW offered Mrs T £250 compensation as a gesture of goodwill which she declined.
16. When Mrs T requested that WTW honour the higher incorrect CETV calculated on 3 July 2017, WTW replied that it could not do this as she was not entitled to this amount in accordance with the Scheme Trust Deed and Rules (**the Scheme Rules**).
17. On 24 July 2017, WTW paid a CETV of £373,525.50 into Mrs T’s new pension scheme.
18. Mrs T applied to have her complaint considered under the Scheme’s Internal Dispute Resolution Procedure (**IDRP**) on 24 July 2017. Unfortunately, whilst her complaint was considered at Stage One IDRP, the response was never finalised and sent to Mrs T.

Mrs T's Position

19. She has queried the accuracy of her pension figures since November 2013 by contacting the previous Scheme administrator and LBG Human Resources department because she believed even then that the pensionable salary being used was lower than she expected.
20. Her decision to opt out of Scheme and transfer her benefits was only made after carefully analysing the pension benefits given up and the incorrect indicative CETV with the assistance of her IFA.
21. She was concerned that the CETV figure available to her would be lower than the indicative value if she did not transfer at the earliest opportunity after opting out of the Scheme on 31 May 2017. She therefore felt that she had no option but to transfer after having given up "her valuable final salary pension".
22. She also says that:

"In hindsight I regret raising the issue around the CETV but understandably did not expect this to reduce the value as the issues I was pointing to related to more time in service and higher pay...You have made mistakes that have resulted in making a decision that cannot be reversed that I would probably not have done had you been right the first time. I am still wary that what you have supplied is accurate...

...I do not feel I should suffer a £40,000 reduction in value to transfer...for mistakes by you...In addition to the financial loss I would also suffer the cost born by my IFA's work to date and forever regretting the decision to exit based upon incorrectly complied figures."

"I am still unsure how my original value and early CETV figures were obtained, especially using incorrect lower salary figures and less hours worked.

I understood that my figures were not guaranteed at the time of opting out...but I would have hoped that any changes would have been due to a change in the market not due to errors.

What proof could I have provided to show that I had relied on the original figures? (these were all I had to make my decision to opt out of my previously valuable scheme).

The whole experience has been extremely lengthy and distressing and I feel that it is disgraceful that neither the Bank or Trustees have taken ownership of their errors..."

The Position of the Trustees and WTW

23. The failure to complete Stage One IDRPs for Mrs T within the two months statutory timeframe was unacceptable and the Trustees have updated their “tracking system” for IDRPs which should prevent this issue from happening again. They have also apologised to Mrs T for the mistakes made by them which should not have occurred.
24. They have a duty to administer the Scheme in accordance with the Scheme Rules. Furthermore, it is clear from the relevant transfer value legislation, i.e. the Occupational Pension Schemes (Transfer Values) Regulations 1996 (SI 1996/1847) that if a CETV has been incorrectly calculated, it must be recalculated.
25. The overstated CETV figures of £413,432.69 and £414,397.39 quoted in June 2017 and on 3 July 2017 respectively were based on an incorrect deferred pension of £11,388 pa. This pension was calculated using wrong pensionable service and final pensionable salary for Mrs T of 19 years 11 months and £34,305 pa respectively.
26. The correct lower CETV figures of £373,090.59 and £373,525.50 quoted on 12 July 2017 and paid out on 24 October 2017 were based on the correct deferred pension of £10,271 pa. This pension was calculated using correct pensionable service and final pensionable salary for Mrs T of 20 years 2 months and £30,557 pa respectively. This information has been confirmed by LBG Payroll (further details of how this deferred pension was calculated may be found in the Appendix).
27. Mrs T’s final pensionable salary is the highest annual average of her pensionable salaries received in the last ten years. The highest average was £29,101.20 pa. This was uplifted by 5% to £30,557 pa as a result of the revised pensionable salary definition introduced for members who contributed to the Scheme prior to 1997.
28. There is scant concrete evidence to show that Mrs T relied to her financial detriment upon the incorrect higher guaranteed CETV quoted on 3 July 2017. There were only nine days before WTW provided her with the correct lower figure so, in their view, reliance on the wrong figure was highly unlikely.
29. Although Mrs T opted out of the Scheme on 31 May 2017 after receiving the incorrect estimated CETV in April 2017, this did not necessarily mean that she had relied upon it to make her decision. She has not explained the timing and the nature of the financial advice which she obtained before making it.
30. They are willing to significantly increase the goodwill compensation offer from £250 to £750 in recognition of the poor administrative service provided by WTW and the failure to conduct Stage One IDRPs properly. Mrs T, however, has rejected this offer because she considers it inadequate and does not cover the time she has spent dealing with this matter or “the worry and financial loss” which she has suffered.

Adjudicator's Opinion

31. Mrs T's complaint was considered by one of our Adjudicators who concluded that further action was required by the Trustees and WTW. The Adjudicator's findings are summarised briefly below:

- The illustrative CETV figure of £401,142 which Mrs T received in April 2017 was overstated because there were errors in WTW's records for her pensionable salary and part time working history which had not yet been rectified. It was not until early July 2017 that WTW was satisfied that it had completely accurate salary and working hours data for Mrs T.
- For the same reason as given above, the deferred pension figures which she received in May and the CETV figure which she obtained via the online member portal in June 2017 were therefore also overstated.
- Mrs T said that she had doubts over the accuracy of the salary figures used to calculate her pension benefits as early as November 2013 and her enquiries about them and subsequently her part time working hours were ongoing right until the end of June 2017. Until this issue was resolved, Mrs T therefore knew that any deferred pension and CETV figures provided by WTW might not be accurate and would therefore be subject to recalculation.
- It had, however, been open to her to defer her decision to opt out of the Scheme and transfer her accrued pension rights to another pension scheme until after she was satisfied that WTW was using the correct data to calculate her benefits but Mrs T chose not to do this.
- WTW only took over the administration of the Scheme in October 2016. The discrepancies which Mrs T believed she has found in the pensionable salary figures used to calculate her benefits should have been rectified by the previous Scheme administrator a long time ago.
- WTW arguably cannot therefore be blamed entirely for not being able to provide accurate deferred pension and guaranteed CETV figures for Mrs T until July 2017 at the earliest. Regrettably though, having received confirmation from LGB Payroll of Mrs T's correct salary and working hours data, WTW failed to take them into account when recalculating her deferred pension and guaranteed CETV on 3 July 2017 which meant that these figures were also incorrect. This oversight clearly constitutes maladministration on WTW's part.
- Although Mrs T received incorrect details of the benefits available to her from the Scheme, it did not confer on her a right to the higher benefits erroneously quoted. Where a mistake occurs, the Pensions Ombudsman's role is, so far as possible, to put Mrs T back in the position that she would have been in but for the maladministration. WTW took appropriate remedial action quickly after noticing its

mistake and sent Mrs T correct benefit figures on 12 July 2017 including a lower guaranteed CETV of £373,090.59.

- Mrs T contended that she had suffered an actual financial loss equal to the difference between the guaranteed CETVs quoted on 3 and 12 July 2017 of £41,306.80. The Adjudicator, however, did not consider that Mrs T has suffered a financial loss for which she should be compensated. For the Pensions Ombudsman to direct the payment of such compensation, Mrs T would have to show that money has actually been lost as a result of expenditure or decisions that would not have been made if the correct information had been quoted at the outset, i.e. on 3 July 2017.
- The loss which Mrs T described did not represent an actual loss, but rather a loss of expectation. Mrs T had not provided any evidence that she entered into any binding financial commitments because of the incorrect information or that she relied on the information to her detriment in some other way. The adjudicator could therefore see no basis upon which he could conclude that she has suffered any actual loss.
- However, the failure to properly consider Mrs T's complaint at Stage One IDRPs was clearly maladministration on Trustees' part.
- It was evident that Mrs T has suffered distress and inconvenience because of the maladministration identified and. In recognition of this, during the Adjudicator's investigation, the Trustees and WTW have increased their goodwill compensation payment from £250 to £750.

32. Mrs T did not accept the Adjudicator's Opinion and the complaint was passed to me to consider. Mrs T provided her 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 Mrs T for completeness.

Ombudsman's decision

33. WTW says that the pensionable service and final pensionable salary of 20 years 2 months and £30,577 pa respectively used to calculate the deferred pension of £10,271 pa have now been confirmed by LBG Payroll to be correct. WTW took some considerable time to verify the salary and have now provided a full explanation of how the figures were arrived at. I see no reason to doubt this statement.
34. Mrs T is not convinced that the CETV available to her would have decreased on recalculation after she had provided WTW on 16 May 2017 with evidence showing that her salary increased in December 2010 from the full time equivalent of £20,084 to £26,620. However, I am satisfied by WTW's explanation that the incorrect CETVs previously quoted were based on an overstated final pensionable salary of £34,305 pa. Her correct final pensionable salary was only £30,577 pa on recalculation, which explains the downward movement in the CETV.

35. As Mrs T, in my view, has been paid the correct CETV available to her from the Scheme, and cannot demonstrate that she would have acted differently if she had had the correct figures all along, I cannot conclude that the maladministration identified above has caused her any actual financial loss. It is clear to me, however, that Mrs T has suffered serious distress and inconvenience because of the errors made. In recognition of this, I note that the Trustees and WTW have offered her £750 compensation. I consider this amount to be lower than I would usually award where the distress and inconvenience caused by an initial error has been compounded by a failure to remedy it through IDRPs. In my view, a payment of £1,000 is warranted for the level of non-financial injustice which Mrs T has suffered.
36. It is therefore my decision that this complaint is partly upheld against the Trustees and WTW and I make the appropriate direction below.

Directions

37. Within 21 days of the date of this Determination the Trustees and WTW shall pay Mrs T £1,000 in recognition of the serious distress and inconvenience which she has suffered in dealing with this matter.

Karen Johnston

Deputy Pensions Ombudsman
26 March 2019

APPENDIX

Relevant paragraphs from WTW's e-mail dated 14 July 2017 to Mrs S

"..., you had queried the pensionable salary information shown on your record in 2010/2011 and we had asked Lloyds to confirm your correct pensionable salary. We received a reply from payroll on 11 May 2017 and this was communicated to you in a letter on 12 May 2017. You did not agree with this information and sent us documentation showing your pensionable salary for this period. We forwarded this information to Lloyds on 23 May 2017 and asked them to investigate. On 16 June 2017 we received a response from payroll regarding your pensionable salary and we updated the salary history on your record. On 29 June 2017 you also queried the part-time hours shown on your record and we asked payroll to confirm this information. This information was received on 30 June 2017 and your part-time service record was updated.

However, when your guaranteed transfer value was produced on 3 July 2017, the pension at date of leaving had not been amended to reflect the correct pensionable salary and part-time service information. This has caused the transfer value produced on 3 July 2017 to be overstated as prior to receiving your correct pensionable from Lloyds we held a much higher pensionable salary figure for you. The estimated transfer value provided in April and the transfer value you ran via the My Pension website in June were also based on incorrect pensionable salary and part-time service information.

I can confirm that your benefits at date of leaving are calculated as follows:

Pensionable service in years and months (full time service reduced for part-time hours) /
60 x Final Pensionable Salary (Full Time Equivalent)

Your Final Pensionable Salary is the highest annual average of your pensionable salaries received in the last ten years. The highest average is £29,101.20 which is uplifted by 5% to £30,557.00 as a result of the revised pensionable salary definition introduced for members who contributed to the Scheme prior to 1997.

Your pensionable service is based on the number of complete years and months between the date you joined pensionable service on 1 May 1990 and 31 May 2017. The part-time service is calculated as follows:

01/05/1990 to 21/07/2002	Full time	12.225 years
22/07/2002 to 04/05/2009	14 hours a week	2.715 years (6.787 years / 35 x 14)
05/05/2009 to 11/07/2010	17.5 hours a week	0.593 years (1.185 years / 35 x 17.5)
12/07/2010 to 30/04/2012	21 hours a week	1.082 years (1.804 years / 35 x 21)
01/05/2012 to 31/05/2017	24.5 hours a week	3.559 years (5.084 years / 35 x 24.5)

The total pensionable service based on complete years and months is therefore 20 years 2 months.

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The resulting pension is therefore = $20.166 / 60 \times 30557 = \text{£}10,271.00$ a year

The above information has now been confirmed by Lloyds payroll.”