

Ombudsman's Determination

Applicant	Mr Y
Scheme	The Rolls-Royce Pension Fund (the Fund)
Respondents	Rolls-Royce UK Pension Fund Trustees Limited (the Trustee)

Outcome

1. Mr Y's complaint against the Trustee is partly upheld, but there is a part of the complaint I do not agree with. To put matters right (for the part that is upheld) the Trustee should pay Mr Y a total of £500 in respect of the significant distress and inconvenience which he has suffered, m which includes the £250 already offered.
2. My reasons for reaching this decision are explained in more detail below.

Complaint summary

3. Mr Y's complaint is that after he transferred his Fund pension into an Equitable Life policy, the Trustee did not update his record to reflect that he no longer had a pension entitlement in the Fund and he continued to receive correspondence showing that he did have an entitlement.

Background information, including submissions from the parties

4. Between 1980 and 1990, Mr Y was a member of the Fund.
5. In September 1990, after leaving employment, Mr Y took a Cash Equivalent Transfer Value (**CETV**) and transferred the whole of his Fund benefit to Equitable Life. However, he continued to receive Fund correspondence from the Trustee.
6. In August 2014, Mr Y received a Summary Funding Statement from the Trustee stating that he was, "a person entitled to benefits from the Fund".
7. On 4 September 2014, Mr Y instructed his financial adviser, Beanland Financial Services Limited (**Beanland**) to investigate whether he still had a pension benefit in the Fund. the Trustee sent Mr Y an estimate of his deferred benefits as at 30 September 2014. The estimate showed his pension had increased to £12,016.33, a year and the figures were estimated and not guaranteed.

8. On 31 March 2015, the Trustee sent Mr Y a further letter about the impact of the changes, introduced in the Government's 2014 Budget, on him as "a member of the Rolls-Royce Pension Fund".
9. In July 2016, Mr Y instructed Beanland to request a CETV from the Trustee.
10. On 26 July 2016, the Trustee wrote to Mr Y saying it had discovered that he had transferred out to Equitable Life in 1990 and was not entitled to a pension from the Fund.
11. On 28 May 2017, after an exchange of correspondence, Mr Y raised a complaint under the Fund's Internal Dispute Resolution Procedure (**IDRP**). He said that he had received a significant amount of correspondence from the Trustee over the intervening years. He also said that the Trustee had provided him with a clear statement of entitlement in September 2014 and he had held an expectation of receiving that pension for over 2 years. Mr Y argued that if he had not requested a CETV this error would likely not have been discovered until he claimed the pension at Normal Pension Age (**NPA**).
12. On 2 June 2017, the Trustee responded under the IDRP and apologised that Mr Y's record was not updated to reflect the transfer in 1990. It said that many funds had historic data issues and it discovered the error whilst conducting a reconciliation exercise with Her Majesty's Revenue and Customs. The Trustee also said it considered Mr Y to have sustained a loss of expectation rather than a financial loss.
13. On 1 July 2017, Mr Y requested that the Trustee consider his complaint under Stage 2 of the IDRP. He maintained his previous arguments and added that he considered the Fund's administration to be of a low standard if it could not review and update his personal data accurately.
14. On 21 September 2017, the Trustee provided its Stage 2 response. It apologised again for the misinformation it had provided to Mr Y but said this did not alter the fact that Mr Y had no further entitlement from the Fund. The Trustee also said that it had rectified the error as soon as it was discovered.

Adjudicator's Opinion

15. Mr Y's complaint was considered by one of our Adjudicators who concluded that further action was required by the Trustee. The Adjudicator's findings are summarised below:-
 - The Adjudicator said that the Trustee had given Mr Y incorrect information concerning his entitlement to a pension from the Fund, but this misinformation did not automatically entitle him to receive those benefits.
 - Mr Y should reasonably have recalled that he had extinguished his entitlement to a pension from the Fund due to the transfer to Equitable Life. He could also have

ascertained the correct position by querying his entitlement with the Trustee much earlier.

- the Trustee offered Mr Y a non-financial injustice payment of £250 in acknowledgement of the Fund correspondence and incorrect retirement estimate it had sent him.

16. Mr Y did not accept the Adjudicator's Opinion and the complaint was passed to me to consider. Mr Y provided his 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 Mr Y for completeness.

Ombudsman's decision

17. Mr Y argues that if he had not requested a CETV then this error would not have been discovered until he claimed a pension at NPA. I agree that receiving Fund correspondence over many years supported Mr Y's expectation that he was entitled to a pension from the Fund. However, much of the correspondence was of a general nature and only the September 2014 early retirement quote outlined an entitlement to a pension from the Fund. The quote also stipulated that the figures were estimated and not guaranteed. Consequently, I find that it could not be relied upon as a definite entitlement to a pension benefit from the Fund.
18. I appreciate that Mr Y was disappointed when he ascertained the correct position. However, it does not change the fundamental point that Mr Y had transferred his pension liability to another provider. As he had actively decided to transfer all his Fund benefits to Equitable Life in 1990, I find that he should reasonably have been aware of the correct position or queried it much earlier with the Trustee.
19. I note that the Trustee has offered to pay Mr Y £250 to reflect the distress and inconvenience caused by misinforming him of his Fund entitlement. However, the Trustee had sent him incorrect information, not just once but over a prolonged period. In such circumstances I would normally consider the continued maladministration to have caused serious rather than significant distress and inconvenience. However, I do believe that Mr Y should have been aware that something was amiss as he had made a conscious decision to transfer all his Fund benefits to Equitable Life in 1990 and had done so. Instead of querying the subsequent information received that he continued to have a Fund benefit requested a CETV.
20. Therefore, I only partly uphold Mr Y's complaint.

Directions

21. Within 21 days of the date of this Determination, the Trustee shall pay Mr Y £500, which includes the £250 that has already been offered, in recognition of the significant distress and inconvenience the misinformation has caused him.

Anthony Arter

Pensions Ombudsman
19 March 2019