

## Ombudsman's Determination

Applicant	Mrs E
Scheme	Barclays Bank UK Retirement Fund ( <b>the Fund</b> )
Respondents	Barclays Pension Fund Trustees Limited ( <b>the Trustee</b> ) Willis Towers Watson ( <b>WTW</b> )

## Outcome

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

## Complaint summary

2. Mrs E has complained about the delays caused by WTW in relation to her transfer request. She believes that WTW was working towards an extended guarantee end date and that it should have informed the receiving scheme about its incorrect paperwork. Had it done so; the receiving scheme could have sent the correct documents before the extended guarantee end date. As a result, she would like the original illustrated cash equivalent transfer value (**CETV**) to be honoured.

## Background information, including submissions from the parties

3. On 20 March 2017, Mrs E contacted WTW and asked for a CETV quotation. WTW issued this on 28 March 2017 (**the March Quotation**), which quoted a CETV of £562,572.32 with a guarantee end date (**GED**) of 28 June 2017, and contained the following statements:

“Please return the form to me before 28 June 2017 which is three months from the guarantee date. [...] If I receive the ‘transfer agreement’ after 28 June 2017, I will work out the transfer value again and it may be higher or lower than the value quoted on the enclosed statement.”

“The transfer value has been calculated using actuarial factors and assumptions which are subject to regular review and will change, as well as statutory factors which are also subject to change. If any of the factors change and you do not return the completed transfer agreement before the end of the guarantee period, the transfer value will be recalculated and may be higher or lower than that shown here. In addition, please note that the fund value of any

defined contribution benefits shown in the statement will rise or fall, subject to market fluctuations.”

4. On 27 June 2017, WTW acknowledged Mrs E’s paperwork in relation to the March CETV Quotation and informed her that it was experiencing extremely high work volumes meaning it may take it a longer than usual to respond.
5. On 29 June 2017, a day after the March Quotation’s GED, Transact (the receiving scheme) sent a pension transfer instruction and transfer agreement form. WTW received these documents on 3 July 2017, but the transfer agreement form was for a separate pension provider in relation to an unconnected individual.
6. On 28 July 2017, Mrs E’s independent financial adviser (**IFA**) contacted Transact for an update. It said that all the forms had been sent to WTW and that it was due to contact them that day.
7. On 4 August 2017, Transact issued a further transfer instruction and discharge form and telephoned WTW to explain that it had sent incorrect forms the first time round. WTW advised that the GED had passed meaning the CETV from the March Quotation was no longer valid.
8. WTW subsequently emailed Mrs E on 7 August 2017 (**the August Email**), using one of her previous work email addresses it held on file. It said, even though no extension had been granted, it had not received all the forms within the “extended guarantee date of 28 July 2017,” so a new quotation would be sent to her. If she wished to proceed with the revised transfer value, WTW asked her to complete and return the revised forms. WTW issued the new CETV quotation on 22 August 2017 (**the August Quotation**), which quoted a CETV of £541,541.79.
9. After receiving the August Quotation, Mrs E contacted her IFA who then telephoned WTW on 31 August 2017. WTW explained that it did not receive Transact’s acceptance of the transfer within the deadline and that the paperwork was incorrect. WTW also said that it had a 30 day extension, but the discretionary practice no longer applied after 12 May 2017. WTW could not see that the IFA had been informed that the CETV had been secured based on Mrs E’s submission of the member agreement and financial advice forms. So, the March Quotation could not be honoured.
10. On 5 October 2017, Mrs E’s IFA complained on her behalf and in summary said:-
  - It did not believe that the Trustee had been fair by imposing the lower quotation. It thought that these internal procedure changes had adversely affected Mrs E and, had the Trustee been more reasonable, it would have understood that Mrs E had agreed to the March Quotation within the deadline and other matters were shortly to be resolved.
  - It had received contradicting information about the GED and did not understand what the Trustee had achieved by following the March Quotation’s GED. It noted

that it had to go through the expense of preparing a further calculation while upsetting Mrs E.

- It had dealt with a number of transfers from the Fund and in those cases, the member declaration had been sent prior to the deadline and the receiving scheme documents had followed. In those cases, the original CETV had been honoured.
  - It argued that the information sent by Transact was sufficient for the transfer to proceed. Namely, bank account details, Transact's tax reference number a copy of Mrs E's application which confirmed her transfer request, and Transact's willingness to accept the transfer. Although Transact sent this after 28 June 2017, it was within the "extended" GED.
  - There had been a lack of communication. Namely, Mrs E was not told about the change in working practice or the failure of the initial transfer request. Mrs E did not believe that the Trustee had acted in her best interests and little had been achieved by imposing strict deadlines.
11. On 22 November 2017, WTW contacted the IFA to ask for further information about Transact's documents. In particular, it asked why none of WTW's specific transfer forms had been returned in a completed state and why its letter was dated a day after the GED. WTW asked the IFA if it had copies of Transact's signed forms which were dated prior to the 28 June 2017.
12. The IFA responded to say that it had understood the incorrect forms were sent in error, but it could not understand why WTW had not contacted anyone to let them know what had happened. The IFA and Mrs E had thought that the transfer was going ahead, as it was not unusual for the transfer payment to take some time to complete. However, it must have been clear that sections were missing when WTW received Transact's documentation. So, a simple telephone call or email would have dealt with the matter.
13. On 29 November 2017, WTW wrote to the IFA and apologised for the fact that it did not respond within its service level agreements (**SLAs**) but due to exceptional circumstances relating to high volumes of transfer payment requests, it had been unable to do so. When it reviewed the documentation from Transact, it closed the initial transfer request as it could see the documentation was signed and dated after the GED. It then sent a revised transfer quotation to Mrs E and Transact. Even if it had sent the correct forms, as they were dated after the GED, the same process would have been followed. Without something to show that Transact had attempted to send WTW's transfer agreement forms before the GED, WTW was unable to present a case to the Trustee for it to consider honouring the transfer value.
14. On 16 January 2018, WTW responded to the complaint with the following:-
- The long standing process agreed between WTW and the Trustee was that if fully completed paperwork for a guaranteed CETV quotation was not received within the guarantee period, the CETV would need to be recalculated. In order to process

a high volume of transfer requests during mid-2016, the administration team adopted a discretionary practice, where if it was satisfied by the documents received prior to the GED, it would allow a further month to allow for the remainder of the transfer discharge paperwork to be received. There was no record of it being confirmed that incomplete transfer paperwork would be sufficient to secure the CETV in the March Quotation.

- It accepted that the August Email incorrectly stated that the GED was 28 July 2017 rather than 28 June 2017, but it was unable to agree that this had any impact on WTW's requirement to recalculate Mrs E's CETV. The completed discharge paperwork was not received from Transact until 7 August 2017, so the CETV would have had to have been recalculated.
  - It acknowledged that it could have contacted the parties involved after receiving Transact's paperwork on 3 July 2017, and that it should have informed them that the CETV would need to be recalculated. However, as confirmed in its email dated 29 November 2017, due to the high volumes of requests it received at the time, there were delays in reviewing and responding to enquiries. It apologised for any frustration caused, but it was unclear why it had been assumed that, in the absence of confirmation from WTW, the transfer was still being processed. Nevertheless, the CETV would have had to have been recalculated regardless of whether WTW contacted Transact following receipt of its documentation on 3 July 2017.
  - Transact's documents were not sufficient to meet statutory requirements. In addition to not receiving a fully signed and dated declaration of acceptance from Transact, it had not received its HMRC registration status. Irrespective of the suitability of the information received, legislation is clear that a request to transfer benefits must be made in writing and within the three month guarantee period, in accordance with the Pension Schemes Act 1993. As WTW received Transact's information after the three month period, it said the suitability of the documentation did not bear any relevancy on the outcome of the case.
  - The Trustee had a duty to ensure that the Fund was run in accordance with the provisions outlined in the Trust Deed and Rules and the prevailing legislation. It was Mrs E's responsibility to return the relevant transfer discharge paperwork within the guarantee period. The Trustee's responsibility was to pay guaranteed CETVs where there had been a valid application to transfer within the relevant timescales. In Mrs E's case, this did not occur, so WTW was required to recalculate the CETV of Mrs E's pension benefits in the Fund.
15. The IFA subsequently escalated Mrs E's complaint to stage one of the Fund's Internal Dispute Resolution Procedure (**IDRP**). It claimed that the one month extension was well understood within the pension industry and that other members of the Fund had been given this discretion. It believed that the August Email indicated that WTW was willing to offer this extension, and questioned why, if that was not the case, the transfer value was only shortly requested after 28 July 2017, rather than 28 June

2017. So, if WTW had informed Transact that it had sent incorrect documentation, the correct forms could have been provided within the 28 July 2017 deadline.

16. On 8 June 2018, the Trustee issued its stage one IDRPs response. In summary, it said:-

- The March Quotation stated a deadline of 28 June 2017 and the requirements were clear. As the completed paperwork was not received by the GED of 28 June 2017, the guaranteed CETV was not secured.
- There was no record of incomplete transfer discharge paperwork being sufficient to secure the guaranteed CETV. So, WTW would have needed the full transfer agreement form, from both Mrs E and Transact before the GED. If WTW had received both transfer agreement forms, the Fund could have allowed one month's grace period from receipt of the transfer agreement to return forms such as the member's identification or HMRC registration details. However, this did not apply to Mrs E as WTW did not receive Transact's completed transfer agreement form in time.
- The August Email referred to a deadline of 28 July 2017 in error. The 28 July 2017 had never been mentioned until that point, so no one could have been relying on it. WTW received the correct transfer agreement from Transact on 7 August 2017, so even if Transact had been working towards a deadline of 28 July 2017, it would have missed it.
- It agreed that it would have been helpful had WTW spotted the error earlier, but this would not have led to the CETV from the March Quotation being honoured.

17. The IFA disagreed with the response and asked for stage two of the Fund's IDRPs. It believed that some points had not been addressed. Notably, how the IFA had been informed, in a telephone call with WTW on 31 August 2017, that the rules had changed on 12 May 2017. This procedural change occurred in the middle of Mrs E's transfer, but it was not communicated to any party involved. The IFA did not think it was reasonable to disadvantage Mrs E on the basis that the documentation from Transact was a few days late. It also questioned the delay in recalculating the CETV and contacting Transact if WTW were not working towards the 28 July 2017 deadline. So, it believed that WTW's delay was relevant.

18. The Trustee responded with its stage two IDRPs response on 17 October 2018. The Trustee did not uphold the complaint for the same reasons it set out in its stage one IDRPs response. With regard to the IFA's comments, the Trustee replied with the following:-

- During the telephone call on 31 August 2017, the IFA had been advised that Transact had sent in forms outside of the GED. WTW had not said anything about extending the guarantee period under the old rules when the receiving scheme's transfer agreement had not been received in advance of the GED.

- The Trustee had a duty to act in the interests of all of the Fund's beneficiaries, so benefits had to be calculated and paid in accordance with the Trust Deed and Rules and any applicable legislation.
- It was unreasonable to suggest that all parties were working to a deadline of 28 July 2017, when no reference had been made to this prior to the August Email. WTW did not inform parties of the incorrect information as it did not discover this until the telephone call from Transact on 4 August 2017. Following that, immediate action was taken by WTW to inform Mrs E that the GED had not been met by Transact. In any case, the statutory timescale for completing a transfer process from the guarantee date was six months, meaning WTW had until 28 September 2017. Had the correct documentation been provided by the GED, WTW would have been well within the time limit to make the transfer payment.
- The Fund did not automatically issue new CETV quotations if a previous one expired for deferred members. Nor did it undertake to provide a revised transfer value within a particular timescale. WTW did not recalculate the transfer value until it was aware of the error, which was not until 4 August 2017. Following this, it was for the member of the Fund to decide whether to proceed with a transfer subject to providing the required documentation within the specified timescale, which Mrs E had done after receiving the August Quotation.
- It expected Transact to have processes in place that would prevent such errors as sending incorrect or incomplete information when authorising the acceptance of a transfer.

### **Mrs E's position**

19. She should not be penalised for the administrative issues experienced by WTW. The increased pressure on its resources and administrative staff also provide some explanation why matters were not dealt with in a timely manner.
20. It seems logical that in WTW's email, which extended the transfer deadline to the 28 July 2017, its systems would have been working to the new deadline and this led to the delay in submitting the revised transfer value. It also adds to the conclusion that if the extension was in place, WTW was not reasonable in remaining silent on the fact that it had received incorrect information.

### **The Trustee's position**

21. SLAs for transfers were 10 working days. This would include a review of the receiving scheme documentation and its rejection if incomplete. This was a target and could not be guaranteed. So, if all the information had been received on 28 June 2017, the target date for the processing of the transfer would have been 12 July 2017. Ordinarily, any incomplete documentation identified within the 10 working days would result in WTW contacting the relevant party to let them know of the information needed to effect the transfer. Once the correct and complete information was

received, WTW would then have needed to recalculate the CETV within 10 working days.

22. Due to the industry-wide increase in the level of transfer requests at that time, WTW did not review the documentation until it received the telephone call from Transact. During the six month period from beginning of January 2017 to June 2017, WTW received approximately 4,800 requests in relation to the Fund. This was an increase of approximately 300% in comparison to the same period a year earlier. As a result, the average time for completing cases during March to June 2017 was broadly six to eight weeks, with payments made within the statutory timelines. So, the Trustee was comfortable that, in the circumstances, WTW had not reviewed the documentation before 4 August 2017.
23. There was no reason to alert Mrs E or the IFA of any change in the discretionary practice operated by WTW as they were not aware that this practice existed and had no reason to expect any concession. The Trustee could find no evidence that either party had been advised of an extension to the deadline prior to the CETV expiry date.
24. There was no reason for Mrs E and the IFA to think that the CETV from the March Quotation had been secured by only submitting the member part of the transfer agreement prior to the GED. In fact, they should have expected to submit all of the required documents before 28 June 2017 to enable the transfer to proceed, which they failed to do.

## **Adjudicator's Opinion**

25. Mrs E's complaint was considered by one of our Adjudicators who concluded that no further action was required by the Trustee or WTW. The Adjudicator's findings are summarised below:-
  - The March Quotation requested for the forms to be returned by 28 June 2017, otherwise the CETV would be recalculated. Although Mrs E submitted everything required from her by that time, it was agreed and accepted that Transact submitted the transfer agreement form late. As a result, Mrs E's right to the CETV quoted in the March Quotation was lost and the CETV had to be recalculated.
  - While there may be discretionary practices where trustees choose to extend the expiry date of a CETV, that did not mean that WTW and the Trustee were required to extend the GED in this instance. So, they did not act in error when they adhered to the March Quotation's GED.
  - The August Email and the length of time it took WTW to issue the August Quotation may have given the impression that there had been an extension granted. However, in the Adjudicator's opinion, these were coincidences rather than a confirmation of an extension. It had been confirmed that the August Email contained an error, which the Adjudicator thought was likely, as an extension had never been discussed either prior to or after the receipt of Mrs E's documentation.

Further, it did not appear that Mrs E's submission would have been sufficient for an extension to have been granted, had the discretion still been in place.

- WTW confirmed in its email dated 27 June 2017, that it was experiencing extremely high work volumes. So, in the Adjudicator's opinion, this supported the Trustee's position that it was likely WTW would not have reviewed Transact's information until Transact contacted WTW on 4 August 2017. In the Adjudicator's view, these events may have caused some confusion, but Mrs E cannot successfully argue that because of them, an extension had been granted. She ought to have known and expected that as the required documentation was not submitted by 28 June 2017, the CETV would have been recalculated regardless.
  - It is accepted that WTW could have reviewed Transact's documents sooner than it did. However, as they were submitted after the GED, this would have had no impact on Mrs E's lost entitlement to the March Quotation's CETV. Had WTW reviewed the information within its SLAs, Transact may have resubmitted the correct forms earlier than it did. In turn, the value of the August Quotation's CETV may have been higher or lower. While this was a possibility, the Adjudicator could not say that WTW was solely responsible.
  - WTW had managed Mrs E's expectations in its email dated 27 June 2017. It was possible that it may have deterred Mrs E from contacting WTW, but it did not prevent her from checking whether WTW had received everything to enable the transfer to go ahead. Mrs E could have also contacted Transact shortly after the GED. Had she done so, it is likely she would have discovered that Transact had submitted the forms after the GED. Alternatively, it could be argued that Transact ought to have informed Mrs E that it had missed the GED when it submitted its documents. This may have highlighted that it had sent incorrect forms, which may have affected the overall time taken. So, the Adjudicator was not persuaded that WTW's acts and/or omissions had directly disadvantaged Mrs E.
  - There is no legal requirement for the Trustee to disclose changes to its discretionary practices. In any case, the Adjudicator could not see that it applied to Mrs E's circumstances, so there would have been no reason for WTW or the Trustee to have informed Mrs E about this.
26. Mrs E did not accept the Adjudicator's Opinion and the complaint was passed to me to consider. Mrs E's further comments are summarised below:-
- The transcript for the telephone call on 31 August 2017, confirmed that pension transfer procedures changed on 12 May 2017, which was after the March Quotation had been issued.
  - The transcript also confirmed that it was acceptable to rely on the submission of the member agreement within the deadline date to hold the transfer value for a further 30 days while the receiving scheme agreement was signed off. In addition,



it was clear from the transcript that this change in procedure had caused a number of cases to “fall through” as advisers were unaware of the rule changes.

- She believes that the question about why the revised transfer was not issued until 22 August 2017, had not been answered. It was indicated that WTW were under heavy workloads at the time. The SLA for issuing a transfer value was within 10 days, but this period was passed by over a month. So, she did not believe it was fair to have been subjected by this delay on the basis of WTW’s workload problems.

27. I note the additional points raised by Mrs E, but I agree with the Adjudicator’s Opinion.

### **Ombudsman’s decision**

28. None of the information provided demonstrates that Mrs E and/or the IFA were told, prior to the March Quotation’s GED, that should Mrs E provide the member agreement within the deadline date, the transfer value in the March Quotation would be held for a further 30 days. So, it would have been unreasonable for Mrs E to have thought that this was the case, without confirming it beforehand. As there was no confirmation, it ought to have been clear that all of the required documentation listed in the March Quotation needed to have been submitted by the GED in order to secure the CETV.
29. Although, Mrs E submitted the information WTW and the Trustee required from her before the GED, Transact did not. Consequently, without any agreed extension, Mrs E’s right to the March Quotation’s CETV was lost, so WTW and the Trustee were correct when they said that the CETV would have to be recalculated.
30. I acknowledge that the transcript for the telephone call on 31 August 2017 confirmed that the Trustee had changed its discretionary transfer procedures on 12 May 2017. However, as there is no legal requirement for trustees to announce changes made to their discretionary practices, I do not find the fact that Mrs E was not notified about this, to be an error.
31. Further, there would have been no reason for WTW to inform Mrs E of this change, as even though it occurred after the March Quotation had been issued, there is nothing to confirm that it had previously applied to Mrs E’s transfer request. This is highlighted within the same telephone call transcript, where WTW confirms that the discretionary practice would only have applied had WTW confirmed this in a conversation with Mrs E or the IFA. As a result, I do not consider that WTW or the Trustee have committed maladministration in this respect.
32. With regard to the time taken by WTW to review the paperwork and issue the August Quotation, I cannot see that this has had a direct impact on Mrs E’s transfer. I accept that if WTW had met its SLAs, it could have reviewed the paperwork by 17 July 2017.

However, at that point, it would have still been unable to recalculate the CETV as the paperwork from Transact was incorrect.

33. Transact could have double checked its submission at any time. In addition, Mrs E could have equally contacted Transact to check whether it had submitted the required forms at any point between 27 June 2017 and 4 August 2017. Taking this into account, I cannot hold WTW wholly accountable for the time taken between it receiving Transact's forms on 3 July 2017, and Transact realising that it had sent incorrect forms on 4 August 2017.
34. Considering WTW did not receive all of the required paperwork until 7 August 2017, and the August Quotation was issued 11 working days after this, I do not consider that WTW's acts and/or omissions caused an undue delay. So, I do not agree that there has been maladministration.
35. I do not uphold Mrs E's complaint.

**Anthony Arter**

Pensions Ombudsman  
20 November 2020