

Ombudsman's Determination

Applicant: Mr S

Scheme: Invensys Pension Scheme (the **Invensys Scheme**)

Respondent: The Trustee of the Invensys Pension Scheme (the **Trustee**)

Outcome

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

Complaint summary

2. Mr S has complained that the Trustee is seeking to recover the sum of £43,462, which it says has been paid to him in error.

Background information, including submissions from the parties

Background

3. Mr S was a member of the Thomas Tilling Pension Scheme from July 1983 to February 1988.
4. In April 1988, the Thomas Tilling Pension Scheme became part of the Invensys Scheme, which was at that time called the BTR Group Pension Scheme.
5. In 1991, Mr S' benefits in the Thomas Tilling Pension Scheme were transferred to a Section 32 buy-out arrangement¹ with the Co-operative Insurance Society. The Co-operative Insurance Society was subsequently acquired by Royal London.
6. In 2014, Mr S reached the normal retirement age for the Invensys Scheme. He was paid a tax free lump sum of £42,632.00 and an annual pension of £6,394.82.
7. In 2018, the Invensys Scheme undertook a reconciliation exercise with HMRC to establish its contracted-out liabilities. HMRC confirmed that its records showed that Mr S' benefits had been transferred to Royal London.

¹ A Section 32 buy-out arrangement is a single member deferred annuity contract used to transfer liability for a deferred member's benefits from an occupational pension scheme to a separate policy. The name derives from Section 32 of the Finance Act 1981 which originally applied to this type of arrangement.

8. On 16 February 2018, the Invensys Scheme's administrators, **PSAL**, wrote to Mr S informing him that it was possible that he was being paid a duplicate pension. PSAL asked Mr S for his authority to write to Royal London. Mr S returned the authority form in April 2018.
9. On 19 June 2018, Royal London wrote to PSAL confirming receipt of a transfer value of £10,967.82 from the BTR Group Pension Scheme for Mr S in August 1991. Royal London also confirmed that it was paying Mr S an annual pension of £6,765.84. It was able to provide copies of correspondence dating from 1991 relating to the transfer. This included a transfer data sheet showing the transfer value of £10,967.82, which included £4,356.87 in respect of a Guaranteed Minimum Pension (**GMP**) liability. It also included a copy of a form signed by Mr and Mrs S, on 23 July 1991, consenting to his benefits being secured under a policy with the Co-operative Insurance Society.
10. On 26 June 2018, PSAL wrote to Mr S notifying him that it had received confirmation that his benefits in the BTR Group Pension Scheme had been transferred to the Co-operative Insurance Society. It enclosed copies of the documents received from Royal London. PSAL explained that, since Mr S was not entitled to benefits from the Invensys Scheme, his pension would cease on 1 July 2018. It also explained that there had been an overpayment. It apologised for any distress the news might cause Mr S and asked him to contact it.
11. Mr S telephoned PSAL on 28 June 2018. He queried why there was no document from the Co-operative Insurance Society confirming receipt of the transfer payment. PSAL referred him to the letter it had received from Royal London. It informed Mr S that the net amount of the overpayment was £67,462.75. Mr S said he believed he had only transferred his contracted-out benefits. PSAL said the evidence from Royal London indicated that Mr S had transferred all of his benefits.
12. In a subsequent telephone conversation with PSAL, Mrs S reiterated their belief that Mr S had only transferred his contracted-out benefits. PSAL explained that Mr S would not have been able to retain benefits in the BTR Group Pension Scheme and transfer his contracted-out benefits alone. Mrs S referred to a Lifetime Allowance certificate provided by PSAL, which had valued Mr S' benefits at £100,000. She queried how the transfer value paid to Royal London could have been only £10,000. PSAL explained that a transfer value and the Lifetime Allowance were calculated in different ways. Mrs S explained that Mr S had paid into the Co-operative Insurance Society for a further six years, but the amount he received from Royal London was not any more than he had been receiving from the Invensys Scheme. PSAL explained that the type of benefits provided by Royal London were different from those paid by the Invensys Scheme.
13. In August 2018, PSAL wrote to Mr S confirming three options for repayment: a lump sum; instalments over 54 months; or a charge on any property he owned for recoupment in the event of its sale. It explained that Mr S could make a claim for

financial hardship. Mr S was also informed that he could make a complaint via the two-stage internal dispute resolution procedure (**IDRP**).

14. Mr S submitted a complaint under the IDRP. He said:-

- He had requested all the paperwork relating to his transfer but had received nothing.
- He had been informed that there had been a transfer of £10,967.82 to the Co-operative Insurance Society. He queried how this could pay him a lump sum of £42,632 and an annual pension of £6,394.82.
- There had been no mention of any transfer of his contracted-out benefits, which he considered was the more likely transfer.
- He had been sent an Lifetime Allowance certificate stating £170,528.40. He queried how this related to the transfer.
- He queried why there had been payments made to him over a period of 54 months.
- He had been offered three options to pay back the overpayment: a lump sum, which was out of the question; instalments of £1,249.31 per month over a period of 54 months, which would leave him with £111.27 per month to live on; or a charge on his property, which was where his family lived and would not be sold in the event of his death.
- He had given each of his daughters £8,000, bought himself a new car, taken his family on holiday. These payments had reduced his savings, but he had enough left for his and his wife's funerals.
- Paying the money back would deprive him and his wife of their current lifestyle.
- The error had occurred through no fault of his.

15. In response to a request for further information, Mr S submitted:-

- A bank statement covering the period April 2013 to September 2018. This showed an opening balance of £26,749.76 and a closing balance of £7,083.45. Mr S identified four withdrawals of £14,000, £8,000, £4,000 and £4,000 in 2016. He explained that the first of these had been partly used for a family holiday and the other three were the gifts to his daughters and grandchildren.
- Receipts, dated 3 and 10 December 2014 relating to the purchase of a car for £22,000².
- A receipt, dated 24 January 2018, for payment of £1,367.51 relating to a boiler.

² Mr S has explained that the car was valued at £30,000 but cost him £22,000 because he traded-in his existing car.

- A receipt, dated 7 April 2017, for payment of £3,686 relating to the purchase of furniture.
 - A receipt, dated 30 January 2017, for the purchase of a door costing £530.
16. The Trustee agreed to accelerate Mr S' case to stage two of the IDRPs. The Chairman of the Invensys Scheme's Pension Governance Committee wrote to Mr S on 9 January 2019. The IDRPs decision is summarised as follows:-
- When Mr S reached normal retirement age, there was no indication on his file that his benefits had been transferred out.
 - During the HMRC reconciliation exercise, it came to light that another pension provider was registered as responsible for paying Mr S' benefits. The transfer of Mr S' benefits had since been confirmed.
 - Mr S had queried the amount of the transfer value and the amount of his Lifetime Allowance. These were calculated differently and at different points in time and were not comparable. The transfer value represented the cost to the Invensys Scheme, in 1991, of providing the benefits which had been promised to Mr S at normal retirement age. It could fluctuate over time due to changes in market conditions and actuarial assumptions. The Lifetime Allowance was calculated at retirement by multiplying Mr S' pension at retirement by 20 and adding his lump sum.
 - The Trustee sympathised with Mr S' situation, but the fact remained that he had received an overpayment which he was not entitled to. The Trustee had to ensure that benefits were paid in accordance with the Invensys Scheme rules and, when an error was discovered, it was obliged to take steps to correct it.
 - The Trustee was prepared to accept that Mr S' expenditure on gifts to his family and a family holiday, amounting to £23,000, were irreversible financial commitments which would not otherwise have been incurred had he not received the overpayment.
 - The Trustee did not consider it clear that the other expenditure Mr S had listed would not have been undertaken in any event and he had had the benefit of those purchases.
 - Mr S' complaint was partially upheld. The overpayment the Trustee was seeking to recover would be reduced by £23,000.
 - In addition, the Trustee felt that an award of £1,000 for stress and inconvenience was appropriate and this would be offset against the remaining overpayment.
 - The amount of overpayment the Trustee was seeking to recover was now £43,462.

17. Mr S was asked to contact the administration team to discuss the repayment options. These were: a lump sum; repayment over 54 months at £804.85 per month; repayment over a longer period; or a charge against his property.
18. Mr S applied to the Pensions Ombudsman in January 2019. The Pensions Ombudsman's Office (**TPO's Office**) received the Trustee's response to Mr S' complaint on 14 February 2019.

Mr S' position

19. Mr S submits:-
 - He had been paid a pension for four and a half years by the Invensys Scheme and had received a lump sum. This had been confirmed as being his deferred pension.
 - He received a letter in February 2018 stating that there had been a mistake and he had to repay £67,000. The letter referred to his contracted-out benefits, so he assumed that this related to opting out of the State scheme. Some of the paperwork he has been provided with refers to the contracted-out benefits.
 - Every time he has requested copies of what exactly was transferred, he has not been sent anything.
 - He cannot believe that a transfer value of £10,997 could pay a lump sum of £42,000 and a monthly pension of £530. He is not convinced that the information is correct.
 - It is the scheme administration which is at fault.
20. Mr S has referred to the purchases he made following his retirement (see paragraph 15). He has explained that he only made these purchases because he felt able to afford them as a result of receiving his pension. He considers the offer of £1,000 to be offensive and disagrees with the Trustee's assertion that he has the benefit of the purchases. He argues that he would have been around £27,000 better off.
21. Mr S has confirmed that he received a lump sum of £37,589.41 from Royal London. He has explained that he invested most of this in a joint three-year fixed bond, together with monies his wife had saved from previous years. Mr S has explained that this was going to be their nest egg for his upcoming years on a pension. He says, had he not received the erroneous payments from the Invensys Scheme, he would not have done this.
22. Mr S has explained that, apart from his Royal London pension, he receives his State pension and a small pension from Just Retirement of £64.66 per month.

The Trustee's position

23. On behalf of the Trustee, it is submitted:-

- With regard to the lack of information, Mr S has been sent a copy of the letter from Royal London, together with the forms and correspondence between Mr S and the Co-operative Insurance Society provided by Royal London.
- The transfer out data sheet provided by Royal London confirms that the amount transferred represented the total value of Mr S' benefits in the Invensys Scheme, including his contracted-out benefits.
- The Invensys Scheme administrator has since been able to locate further records on a microfiche. A suitable microfiche reader/printer has been located and copies of these documents have been provided.
- The Trustee has no reason to doubt that Mr S transferred the entirety of his entitlement to benefits in the Invensys Scheme to Royal London. It believes that it has now provided Mr S with relevant confirmation of what happened to his benefits.
- As Mr S has been paid benefits to which he was not entitled, the Trustee has a legal and fiduciary obligation to the membership of the Invensys Scheme to seek repayment.
- With regard to Mr S' query as to how a transfer value of £10,967 could equate to a lump sum of £42,000 and an monthly pension of £530 in 2014, the amounts are not comparable because of the time difference and fluctuations in factors such as inflation and investment growth.
- Part of the reason for the difference is that, since Mr S transferred his benefits out of the Invensys Scheme, a number of benefit augmentations have been provided to the remaining members.
- The Invensys Scheme actuary has confirmed that, under the assumptions adopted at the time of Mr S' transfer, the projected annual pension payable at age 65 was around £8,400. The annual pension calculated in 2014 was £9,335 before commutation for a lump sum. The difference between the two figures is the result of bonuses applied since 1991 and the actual inflation experience being different from the assumed.
- At the time of Mr S' transfer, interest rates were very high. This meant that the expected cost of providing a pension at age 65 was around £9 for every £1 of pension. Investment return was assumed to be around 9% per year over the 22½ years from the date of transfer to Mr S' retirement date. The estimated present value of a pension of £8,400 in 1991 was: $£8,400 \times 9 / (1 + 9\%)^{22.5} = £10,900$. This is consistent with the transfer value paid at this time.

- Mr S has submitted details of certain financial decisions and purchases, which he asserts he would not otherwise have made. The Trustee considered whether Mr S had “changed his position” such that it would be unfair to require him to repay the overpayment.
- Mr S was given the opportunity to present evidence for the expenditure he had incurred. A bank statement indicated that Mr S had significant savings prior to the overpayment. Notwithstanding this, the Trustee was prepared to accept Mr S’ gifts to his family and his family holiday were irreversible financial commitments which he would not otherwise have entered into.
- Mr S has not provided any other financial statements to demonstrate other income or savings, including for the account into which the lump sum and pension were paid. The Trustee has, therefore, been unable to analyse the extent to which Mr S may have relied upon the overpayment to fund his other purchases.
- It is regrettable that this error has occurred and the Trustee apologises for the stress and inconvenience to Mr S.

Adjudicator’s Opinion

24. Mr S’ complaint was considered by one of our Adjudicators who concluded that no further action was required by the Trustee on the grounds that it had already provided appropriate redress for its maladministration. The Adjudicator’s findings are summarised below:-

- Mr S’ complaint concerned the decision, by the Trustee, to seek recovery of the sum of £43,462, which it had said had been paid to him in error. The error had arisen because Mr S’ decision to transfer his benefits to a policy with the Co-operative Insurance Society in 1991 had not been properly recorded by the Invensys Scheme administrators.
- The starting point in any case where retirement benefits had been paid in error was that the payments could be recovered. The fact that the payments had been made because of an error by the Invensys Scheme administrators did not alter this position. Mr S would be required to repay the payments he had received from the Invensys Scheme unless he was able to establish that he had one of the legal defences against recovery.
- The most common defence against recovery of a payment made in error was referred to as “change of position”; that is, the recipient had changed their position such that it would be unjust to require them to repay the monies, either in whole or in part. Change of position was a defence to a claim in unjust enrichment. To make out a change of position defence, certain conditions had to be satisfied. Briefly, the recipient had to be able to show that, on the balance of probabilities:-
 - Their circumstances had changed detrimentally;

- The change of circumstances had been caused by receipt of the monies paid in error; and
- They were not disqualified from relying on the defence.
- With regard to the last point, a change of position defence was not available to an individual who acted in bad faith when changing their position. The Adjudicator said she wished to make it clear that bad faith, in this context, was not synonymous with dishonesty. It could simply mean that, if the recipient had good reason to think that a payment had been made in error, the change of position defence would not be available to them. This included the situation where someone might suspect that there was something amiss and could have taken simple steps to ascertain the correct position but did not do so. In other words, the recipient of a payment made in error could not turn a blind eye. Bad faith did not, however, include acting negligently; so, a careless recipient might still be able to invoke a change of position defence.
- The Adjudicator said, since the Trustee had accepted that Mr S had received the monies paid to him in error in good faith, she did not need to consider this any further. It simply remained for her to consider whether, and to what extent, Mr S had been able to establish the other elements of a change of position defence.
- The most obvious example of a detrimental change of circumstances was the expenditure of money. However, not all expenditure would count for the purposes of a change of position defence. For example, as a general rule, paying off a debt was not considered a detrimental change of circumstances because the debt would have to be paid off at some point. There was no absolute requirement for the monies to have been spent on extraordinary items, such as a car or a holiday. The requirement was for there to have been a causal link between receipt of the money and the expenditure. The Courts had been prepared to allow a change of position defence when there had been a series of payments which had been used to fund a better lifestyle³. The expenditure did, however, have to be irreversible. Where the monies had been used to purchase items with a re-sale value and a reasonable person could sell the item without disproportionate expense or difficulty, the defence would only succeed to the extent that the re-sale value was less than the initial outlay.
- The Trustee had accepted that Mr S had a change of position defence to the recovery of £23,000 comprising gifts to family and a family holiday. Mr S had submitted that he had made further purchases which he would not have done but for receiving the payments made to him in error. These comprised: £22,000 for a car; £1,367.51 for a new boiler; £3,686 relating to the purchase of furniture; and £530 for a new door.

³ *Philip Collins Ltd v Davis* [2003] 3 All ER

- Any item with a re-sale value would usually only succeed to the extent that its re-sale value was less than the amount paid for it. This was not to say that Mr S would be obliged to sell his car, but he could only claim a change of position defence for the difference between the £22,000 he paid for it and the amount he could now sell it for. Mr S would also need to be able to show that he would not otherwise have bought the car.
- Mr S had explained that he received a lump sum of £37,589.41 from Royal London, which he had invested in a three-year bond. On the basis that Mr S had other funds available to him at the time he purchased the car, it was difficult to conclude that he would not, on the balance of probability, have purchased it anyway.
- With regard to the remaining items of expenditure which Mr S had identified, it was also difficult to conclude that these would not have been purchased regardless of the payments made in error. The purchases were items which people tended to replace when they needed to do so. On the balance of probability, it was likely that Mr S would have incurred this expenditure regardless of having received the money paid to him in error. A change of position defence was unlikely to succeed in respect of these items.
- The Adjudicator, therefore, concluded that Mr S had not established a change of position defence for the remaining £43,462 which the Trustee was seeking to recover.
- There were other defences to the recovery of an overpayment; for example, estoppel and contract. These arose less often in pension cases but could be considered if the circumstances of the case suggested that it would be appropriate to do so.
- Estoppel was a legal principle which provided that if, by statement or action, a person caused another person to believe that a particular set of facts or circumstances were true, then they should not be allowed to draw back from those statements or actions, if it would be unjust or unconscionable (extremely or shockingly unfair) to do so. The requirements for estoppel were similar to the change of position defence, including the requirement for good faith. However, the person had also to demonstrate that they had relied to their detriment either:
 - on a clear and unequivocal statement (representation); or
 - on a mutual assumption of facts or law (convention).
- Where monies had been paid in error, the effect of an estoppel was that the payer would be held to comply with the incorrect payment. The payer would be estopped from seeking to recover the overpayment. However, the payments themselves did not constitute a representation.

- The Adjudicator said she had not been able to identify the kind of clear and unequivocal statement or mutual assumption required for estoppel in Mr S' case. The payments had been made on the basis that Mr S had retained his benefits in the Invensys Scheme and, therefore, had a right to a pension and lump sum. He did not have a right to receive those benefits once he had transferred them away from the Invensys Scheme. In addition, the Courts had spoken of the most important element as being able to show that it would be unconscionable to go back on the representation. The Adjudicator said she doubted whether it would be deemed unconscionable for Mr S to be asked to repay benefits to which he no longer had any entitlement.
- The Adjudicator said she had also not been able to identify the necessary elements for a contract to exist; that is, offer, acceptance, consideration and an intention to enter into legal relations. In particular, she could not see that there was any intention on the part of the Trustee to enter into a legal relationship with Mr S beyond any entitlement under the Invensys Scheme Rules. In any event, a contract which had been based on mistake was unlikely to be enforceable.
- Finally, the Adjudicator considered whether the Limitation Act 1980 (the **Limitation Act**) had any bearing on the extent to which the Trustee might seek to recover the payments made in error. The Limitation Act provided timescales by which an action had to have commenced where there had been a breach of the law.
- Action to recover monies paid in error was considered to be a restitutionary claim. Essentially, the Trustee was seeking a remedy to an "unjust enrichment" to Mr S by asking him to reimburse the Invensys Scheme. Such claims were historically based upon forms of action found in contract law and the Limitation Act could apply. Section 5 of the Limitation Act required a claim to be brought within six years of the "cause of action". In Mr S' case, that would be within six years of each erroneous payment.
- The Courts had decided that the cut-off date for the purposes of the Limitation Act in cases before the Pensions Ombudsman was the date on which TPO's Office received a response to a complaint. In Mr S' case, TPO's Office received the Trustee's response to his complaint on 14 February 2019. This was within six years of the first erroneous payment in 2014. The Trustee was not restricted by the Limitation Act in seeking to recover the erroneous payments from Mr S.
- Clearly, the payment of benefits to someone who was not entitled to them constituted maladministration. However, in order to uphold a complaint, the Pensions Ombudsman had to find that any maladministration had resulted in the individual sustaining injustice. Mr S had not sustained a financial loss as a result of the maladministration identified. However, the Pensions Ombudsman could also consider whether there had been non-financial injustice; commonly referred to as distress and inconvenience.

- In Mr S' case, the Trustee had acknowledged that Mr S had sustained distress and inconvenience as a consequence of the payments made to him in error. It had reduced the amount it was seeking to recover from him by a further £1,000 in recognition of this. This was consistent with the amount indicated for serious non-financial injustice in guidance⁴ issued by the Pensions Ombudsman. In the Adjudicator's view, the Pensions Ombudsman would find this to be suitable redress and would be unlikely to direct the Trustee to offer any higher sum.
 - The Adjudicator commented that, usually, the Pensions Ombudsman would expect the individual to be offered the option to offset such an award against the amount to be recovered. The award was, after all, intended to compensate the individual, rather than the pension scheme. However, in the circumstances, she imagined that Mr S was content to have the amount he was required to repay reduced in this way.
 - The Adjudicator noted that Mr S felt he had not been provided with sufficient evidence relating to the transfer in 1991. The Trustee had, on more than one occasion, provided Mr S with copies of the documentation it had received from Royal London. In her view, this was sufficient to confirm that Mr S had transferred the entirety of his benefits out of the Invensys Scheme. Mr S had suggested that he had only transferred his contracted-out entitlement. The Adjudicator acknowledged that there was reference to Mr S' contracted-out entitlement in the transfer documentation. However, it was clear that this had been included in the total transfer value. The "Transfer Data Sheet" stated that: "The Protected Rights **portion of** the transfer value ... is £4,356.87 and this is in respect of the GMP" (emphasis added). The Trustee had also explained to Mr S why the amount of the transfer value paid in 1991 was not the same as the Lifetime Allowance calculated in 2014. The former represented an actuarial calculation of the cost of providing Mr S' retirement benefits as of 1991; the latter was a calculation of the value of the retirement benefits as of 2014 for HMRC purposes.
 - It was the Adjudicator's opinion that Mr S' complaint could not be upheld. She suggested that he contact the Trustee to discuss a suitable repayment plan, which minimised the impact on him and his family.
25. Mr S did not accept the Adjudicator's Opinion and the complaint was passed to me to consider. Mr S provided further comments which are summarised below. I have noted Mr S' comments but I find that they do not change the outcome. I agree with the Adjudicator's Opinion.

⁴ https://www.pensions-ombudsman.org.uk/sites/default/files/publication/files/Updated-Non-financial-injustice-September-2018-2_0.pdf

Mr S' further comments

26. In response to the Adjudicator's opinion, Mr S said:-

- He was not asked to provide any financial statements relating to his savings or income.
- It would not have been possible for him to have purchased his car if he had not received the lump sum payment from the Invensys Scheme.
- He has had his car valued and it is now worth £10,000. This represents a loss of £12,000 which he would not have incurred because he would not have been in a position to purchase a car of this value without the monies from the Invensys Scheme.

Ombudsman's decision

27. The Trustee has accepted that Mr S has a change of position defence to the recovery of £23,000. The disagreement lies in whether, and to what extent, Mr S has a defence to the recovery of the remainder of the monies paid to him in error.
28. Since the Trustee has accepted that Mr S received the payments in good faith, the question before me is whether he has established a detrimental change of circumstances as a result of receiving the incorrect payments. In other words, I need to consider whether Mr S has been able to show that, but for receiving the incorrect payments, he would not have taken some action. The action which Mr S argues he would not have taken is to make certain purchases; namely, the purchase of a car, a boiler, furniture and a door.
29. I agree with my Adjudicator that Mr S would, more likely than not, have made the purchases of the boiler, furniture and door regardless of having received the incorrect payments. These are items which tend to be purchased of necessity.
30. Mr S has argued that, but for the incorrect payments from the Invensys Scheme, he would not have been in a position to purchase the car. The Trustee has pointed out that, on the evidence provided, Mr S had significant savings prior to receiving the incorrect payment. I take the Trustee to mean that Mr S would have used these savings to purchase the car in the absence of the payments made in error from the Invensys Scheme.
31. It is always difficult to determine what action someone might, or might not, have taken at some point in the past if they had had different information available to them. It is, however, important to avoid applying hindsight. Had there been no maladministration, Mr S would have received his lump sum and pension from Royal London only. He would have been making his purchasing decisions on the basis of those payments and his existing savings. He would have had no knowledge of the erroneous lump sum payment of £42,632 and, importantly, would not have been facing the requirement to repay £43,462. Mr S has disclosed that he took a lump sum of

£37,589.41 from his Royal London policy and he had £26,749.76 in a savings account. He has explained that he put the Royal London lump sum in a joint three-year fixed bond, together with monies his wife had saved from previous years, and paid £22,000 for the car.

32. I acknowledge that there are a number of possible alternative courses of action which Mr S might have opted for. For example, he might have opted to purchase a less expensive car. However, the onus is on Mr S to show that he would not have purchased the car he did but for having received the erroneous payments from the Invensys Scheme. In the circumstances, I find that there is insufficient evidence for me to conclude that Mr S would not otherwise have purchased the car.
33. I find that Mr S has not established a change of position defence for the £43,462 which the Trustee is seeking to recover from him. I agree with my Adjudicator that the other possible defences to recovery are also not available to Mr S.
34. With regard to the sum of £1,000 offset against the amount which the Trustee is seeking to recover, I find that this is appropriate redress for any distress and inconvenience caused to Mr S by the Trustee's maladministration. There is no outstanding injustice which requires my intervention.
35. I do not uphold Mr S' complaint.

Anthony Arter
Pensions Ombudsman

25 November 2021