

## Ombudsman's Determination

Applicant	Mr W
Scheme	Lloyds Bank Pension Scheme No. 2 ( <b>the Scheme</b> )
Respondents	Lloyds Banking Group Pension Trustee Limited ( <b>the Trustee</b> ) Willis Towers Watson ( <b>WTW</b> )

## Outcome

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

## Complaint summary

2. Mr W's has complained that:-
  - As a result of errors by WTW, and the poor level of service it provided, he was not in a position to transfer his benefits from the Scheme earlier.
  - The cash equivalent transfer value (**CETV**) he received was lower than he expected.

## Background information, including submissions from the parties

3. Mr W's normal retirement date (**NRD**) was 13 March 2017. In early 2017, the administration of the Scheme was transferred from Equiniti to WTW.
4. Below is a summary of the events that took place between February and August 2017:-
  - Mr W contacted WTW on 7 February 2017 in anticipation of his forthcoming retirement. WTW informed him that the usual process was for it to contact members six months before their NRD. Mr W requested a retirement pack with a CETV illustration.
  - On 8 February 2017, WTW sent Mr W a retirement pack and on 10 February 2017, WTW sent a CETV illustration (**the first CETV illustration**) for £497,903.68, with an expiry date of 10 May 2017. Mr W said he did not receive either letter.

- Mr W chased WTW on 27 February 2017 for the retirement pack.
- WTW re-sent the retirement pack to Mr W by email but he said he did not receive it.
- Mr W chased WTW again on 3 March 2017 for the retirement pack. WTW checked Mr W's email address and confirmed that it had the correct address for him and re-sent.
- On 5 March 2017, Mr W generated a CETV illustration from the Scheme's online portal (**the online illustration**). It quoted a CETV of £499,014.98. On the same day, he raised the following queries with WTW:-
  - Was it correct that he had not received a retirement statement since 7 December 2015?
  - The 2015 retirement statement showed that the annual pension payable at his NRD would be £16,398. The Scheme's online portal showed the annual pension at NRD as £16,393. Was this information from the online portal correct, and what indexation had been applied.
- WTW re-sent the retirement pack without the First CETV Illustration on 10 March 2017. Mr W confirmed that he received it.
- In May, Mr W chased for a response to the queries he had raised, Mr W was not satisfied with WTW's subsequent response of 17 May 2017 as it did not answer his queries.
- In June 2017, WTW informed Mr W that uplifts were applied to his benefits in April each year based on inflation, and part year increases were not applied. It then sent Mr W details of the uplift percentages applied between 2014 and 2017. Around this time, Mr W said he became aware of the First CETV Illustration and was surprised that the retirement pack sent on 10 March 2017 did not include details of a CETV illustration.
- WTW re-sent the First CETV Illustration to Mr W on 14 June 2017, after the guaranteed date of 10 May 2017 had already passed.
- Mr W raised further queries about his pension entitlement and the First CETV Illustration. In response, WTW said on 23 June 2017, that deferred members of the Scheme are unable to take late retirement as this was not permitted under the Scheme Rules and, as such, there was no provision for transferring after NRD. Mr W asked WTW to reconsider this on 17 June 2017.
- Mr W's independent financial adviser (**IFA**) sent a letter of authority to WTW and requested a full transfer pack on 26 June 2017.
- On 17 July 2017, Mr W raised a complaint about the way WTW had handled his case. WTW acknowledged it the following day and informed him that a full

response to his complaint would be issued once it had issued another CETV illustration.

- WTW confirmed on 28 July 2017, that it would be able to issue one final CETV illustration which would be provided in ten working days, and that it required a manual calculation.
  - Mr W's IFA chased the CETV illustration on 31 July and 2 August 2017.
  - WTW provided Mr W with updates on 4 and 11 August 2017, explaining that the CETV illustrations needed to be referred to the Scheme actuary for review. Mr W called WTW for an update on 16 August 2017.
  - On 22 August 2017, WTW sent Mr W a CETV for £478,298 with an expiry date of 18 November 2017 (**the Second CETV Illustration**).
5. Mr W queried the Second CETV Illustration on 23 August 2017. He said he had expected that it would have been calculated as at his NRD, not based on current figures.
  6. WTW responded on 7 September 2017. It explained that it was unable to provide backdated quotations as the factors used to calculate a CETV were amended regularly by the Scheme actuary.
  7. Mr W was disappointed with WTW's response and on 8 September 2017, he asked WTW to confirm when it would respond to his complaint of 17 July 2017.
  8. On 18 September 2017, WTW responded to Mr W and apologised that he was unhappy with its previous response to his complaint. It said a senior manager had re-considered his complaint and reached the same decision.
  9. Mr W sent a further response to WTW on 28 September 2017, setting out his key concerns and complaints in detail. He said:-
    - WTW's failure to start the retirement process in October 2016, led to a fundamental breakdown that has been impossible to recover from.
    - The retirement pack dated 8 February 2017, failed to advise him of full information and timescales as it did not include a CETV among other things.
    - In February and March 2017, the Scheme's website contained information that was last generated by the previous Scheme administrator in December 2015.
    - He had "misgivings" about the figures WTW had provided so he queried the underlying calculation basis on 5 March 2017. Due to WTW's lengthy turnaround times and despite many chasers, his query was not resolved until 14 June 2017.
    - It was only after the expiry of the First CETV Illustration that he knew it had been generated despite him being able to generate the Online Illustration. He was then subsequently informed that he was not able to transfer out after his NRD.

- He did not understand the distinction between a retirement quote and a CETV illustration. His “lack of confidence over the calculation basis covered retirement figures and transfers”. He assumed these were inextricably linked and that the figures had not yet been confirmed or corrected.
  - His complaint of July 2017 was not responded to for seven weeks. The response was incomplete as he had not yet received a full response as to what happened with his case and what communications he missed.
  - He raised the point that he had not received the First CETV Illustration in February 2017, or on 10 March 2017, when he received the retirement pack. This was not addressed and he did not receive an explanation for this.
  - He did not receive the priority treatment WTW had promised him when he first called on 7 February 2017 and given the initial failure to send the retirement pack earlier, WTW should have dealt with his query as whole and in content, and it should have been proactive.
  - He was not prepared to accept a loss of £20,716.88, which was due to short comings in WTW’s processes.
10. Mr W chased for a response in October 2017. In November 2017, he submitted a request to transfer his benefits from the Scheme. The CETV paid to the receiving scheme was £478,298.
11. Mr W chased WTW again on 23 November 2017, for a response to his complaint. WTW responded on 14 December 2017, and informed Mr W that the person he has been corresponding with had left the company. Mr W did not receive a substantive response from WTW after this time.
12. In August 2018, the Trustee provided a response to Mr W under stage one of the internal dispute resolution procedure (**IDRP**). It said that it understood his disappointment that the First CETV Illustration was higher than the Second CETV Illustration. It said:
- “the Trustee has a duty to administer the Scheme in accordance with the Scheme rules, legislation and agreed policies. Both the first CETV and second CETV were appropriately calculated and issued. I do not believe that it would be correct or appropriate for the Trustee to compensate [Mr W] in respect of the difference between the second CETV and the [Online Illustration] ...”.
- The Trustee apologised for delays Mr W faced in respect of the retirement pack that was not sent to him until five weeks before his NRD, and for WTW’s delays in responding to his queries. The Trustee offered £500 in recognition of the distress and inconvenience he had suffered.
13. Mr W was dissatisfied with the Trustee’s response and appealed under stage two of the IDRP. In its response of 3 December 2018, the Trustee said:

“Given the Trustee has a duty to administer the Scheme in accordance with the Scheme rules, legislation and agreed policies, the committee does not think it would be appropriate for the Trustee to compensate [Mr W] in respect of the difference between the second CETV and the [Online Illustration] ...”.

14. The Trustee considered the offer of compensation for distress and inconvenience offered under stage one of the IDRPs was in line with what the Pensions Ombudsman would direct. The Trustee maintained its position in relation to Mr W’s complaint to us.

## Adjudicator’s Opinion

15. Mr W’s complaint was considered by one of our Adjudicators who concluded that no further action was required by WTW or the Trustee. The Adjudicator’s findings are summarised below:-
  - In accordance with Regulation 20(2) of The Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013 (**the Disclosure Regulations**) (see Appendix), there is a legal requirement for certain information to be provided before a member’s benefit becomes payable. Regulation 20(3) provides the timeframe for when this information should be provided. It states that where the benefit becomes payable on or after normal pension age, it must be given “if practicable and in any event, within one month after the benefit becomes payable”.
  - The Trustee’s usual process is to send retirement packs to members six months before their NRD. Through no fault of Mr W, this did not happen in his case. As a result of an error that occurred during the change in the Scheme’s administration, it was Mr W who initiated the retirement process in February 2017. Despite this, on the basis that WTW first sent the retirement pack to Mr W on 8 February 2017, there was no maladministration in this regard. It would have been helpful for Mr W to have received one earlier. If WTW had sent the retirement pack to Mr W after 13 April 2017, it would not have complied with its obligations under the Disclosure Regulations.
  - From the information available, Mr W first requested a CETV on 7 February 2017 and there is evidence that the First CETV Illustration was sent, separately from the retirement pack, on 10 February 2017. From that time to 10 March 2017, Mr W chased WTW for the retirement pack only, he did not re-request a CETV illustration. Mr W has subsequently queried why the two were not sent together and said he was not aware that they were two separate documents. In my view, it is not unusual for a retirement pack to be sent separately from a CETV illustration. A member’s entitlement to both is derived from separate pieces of legislation, and while both are useful for the purposes of retirement planning, it is not always the case that a CETV illustration will be required by all members. So, it is not for the Trustee or WTW to pre-empt Mr W’s requirements and assume that when he said

he had not received the retirement pack, he had also not received the First CETV Illustration.

- The Adjudicator acknowledged Mr W's position on this but on receipt of the retirement pack, by his own admission, it was apparent to him that the information to affect a transfer from the Scheme had not been included in the retirement pack. So, after discovering this, it is not unreasonable to expect that if Mr W was still interested in a transfer out, he would have asked WTW again for a CETV illustration. This view is further supported by information in the retirement pack which asks members to indicate, by ticking a box, if they are interested in transferring their benefits. This demonstrates that further information specifically related to a transfer will then be provided if that option is selected. As part of the information it is required to provide under the Disclosure Regulations, the Trustee, and WTW, do not need to provide a CETV illustration with a retirement pack. So, the Adjudicator did not conclude that the Respondents were at fault for not resending the First CETV Illustration as a matter of course.
  - It cannot be said that Mr W has suffered a loss because he did not receive the First CETV Illustration before its expiry. It is not an absolute certainty that Mr W would have submitted a transfer request before the expiry of the First CETV Illustration, if he had received it. In May 2017, he was still in the process of querying aspects of the information WTW had provided so it is possible that he would not have proceeded with a transfer while this was ongoing.
  - In addition, although the First CETV Illustration was guaranteed, Mr W would have only become entitled to the amount stated once he had completed and returned the relevant documentation to WTW before the end of the guarantee period. This did not happen so the Online Illustration and the First CETV Illustration merely raised his expectations.
  - Based on the timeline of events, it is evident that there were delays in Mr W receiving his retirement pack. Although it was within the legal timeframe, the Trustee's failure to ensure a smoother transition during the change of administration is maladministration. Mr W had to chase WTW on several occasions throughout the retirement process when he had no response to his queries. This would have caused Mr W significant distress and inconvenience. While Mr W's complaint is against WTW and the Trustee, the Adjudicator recognised that the Trustee is ultimately responsible for the administration of the Scheme. The Trustee apologised for delays Mr W faced in respect of his retirement pack and for the delays in WTW's responses to his queries. The Trustee offered Mr W £500 for the distress and inconvenience he suffered which was sufficient in the circumstances.
16. Mr W did not accept the Adjudicator's Opinion and the complaint was passed to me to consider. Mr W 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 main points made by Mr W for completeness.

17. Mr W said the following:-

- The first issue that led to the complaint was that the Trustee failed to secure a fully reliable conversion process when it switched administrators. This resulted in the case being wrongly closed at the time. As a result, the Scheme's normal retirement process was compromised.
- The immediate effect was that he did not receive any documentation six months before his NRD.
- WTW failed to ensure that he received documentation once communications had been established in February 2017. WTW failed to fulfil its promise to email documentation as well as by post. He did not receive an email from WTW until 10 March 2017.
- The online portal appeared to hold his information but was last updated by the previous administrator. He was able to log in on 5 March 2017 and generated a transfer value.
- Only after he alerted WTW of the approaching deadline was it able to meet the legal deadline for providing a CETV.
- He argues that the Trustee should have been aware that economic conditions at the time made the transfer value of defined benefit schemes far more attractive than normal. It would also be aware that the regulatory demands of validating a pension transfer meant in reality a three month guarantee period would be barely achievable.
- He did not accept the findings conclusion that there was no maladministration in wrongly closing the case during the transition between the Scheme administrators and failing to contact him six months before NRD, because WTW managed to provide information before 13 April 2017, which was the legal deadline.
- The argument that he chased only the retirement pack is unfair because it assumes that he should have known that two separate letters would be generated by WTW. His chase calls after 24 February 2017 were because he had not received the documentation due to be re-sent via email. The findings did not address WTW's failure to resend documentation on 24 February 2017.
- He believes that it is dubious that two items of post went missing and that he is not satisfied that these were actually sent.
- The retirement document received was 22 pages long and contained numerous duplicate pages. On the retirement statement under option 3 – transfer alternative it said: "you can transfer the value of all your pension benefits (including AVCs) to another pension arrangement". It did not say "we have written under separate cover in this respect". He did not return any part of the form as, at the time, he thought it was incomplete and based on information that had not been updated by

WTW. He had no intention of triggering the formal process when he asked for a valuation on 7 February 2017. On 5 March 2017 he had been able to obtain a transfer value from the website which gave no indication of any formal process having already been triggered. So, he had what he needed for his financial adviser.

- He believed the loss happened due to old scheme members not being converted properly from the previous administrator to WTW.

### **Ombudsman's decision**

18. Mr W has complained that due to the Scheme administration changeover he received poor service from WTW, which is not in accordance with what would normally happen. Further to this his transfer value was lower than he had anticipated.
19. WTW has explained that its normal process is to provide a retirement pack six months before a person is due to retire. So, there is no dispute that there was a service failure by WTW. WTW explained that an error occurred due to the administration recently being transferred to it. Regulation 20(3) provides the timeframe for when this information should be provided. It states that where the benefit becomes payable on or after normal pension age, it must be given "if practicable and in any event, within one month after the benefit becomes payable". Mr W has said that WTW would have missed this legal requirement if it had not been for him contacting them. I cannot say whether this is true or not, I can only make a decision based on the information I have been provided with. This shows that Mr W received the retirement pack within the time limit set out in the Disclosure Regulations.
20. In February 2017, Mr W contacted WTW regarding the taking of his benefits, as he was approaching his NRD of 13 March 2017. On 8 February 2017, WTW provided a retirement pack along with the First CETV Illustration of £497,903.68. Mr W did not receive the retirement pack. However, the evidence provided shows that the retirement packs were produced and sent.
21. Mr W has said that WTW said it would contact him via email and did not do this until 10 March 2017. He also says that it failed to make contact to ensure he had received the retirement pack dated 8 February 2017. It was not unreasonable for WTW to assume that once it had sent the retirement pack this would have been received by Mr W. If this was not the case it would have expected Mr W to contact them.
22. Mr W then obtained information from the online portal which provided him with a CETV amount of £499,014.98. Mr W has explained that he saw this had only been updated by the past administrator. Therefore, he should have known that the information was probably out of date and not reliable.



23. WTW re-sent the First CETV Illustration on 10 March 2017, and Mr W confirmed that he received this. Mr W should have been aware at this point that the deadline for accepting the First CETV Illustration was getting close.
24. In June, Mr W's IFA raised numerous queries, at this point the deadline for the First CETV Illustration had passed. So all parties would have been aware that, if Mr W made the decision to transfer, a new CETV would need to be calculated.
25. The Second CETV was issued with the value of £478,298. Mr W requested that the CETV be calculated at his NRD. WTW were unable to provide backdated calculations which was reasonable. Although, I appreciate that Mr W believes he would have received a higher transfer amount had he received his retirement pack on time, Mr W could have contacted WTW sooner asking for a retirement pack, but he waited until almost a month prior to his NRD.
26. Mr W believes it was unreasonable to re-send the First CETV Illustration, because he could not meet the deadline to receive that amount. WTW cannot be held responsible for Mr W raising extra queries through his IFA. This would have taken time in which to respond. The First CETV Illustration clearly explained the three months guarantee period, which is the standard guarantee length.
27. Mr W has said he does not believe the retirement packs were actually issued as they were not received. Although I can understand Mr W having a doubt about the letters being sent, WTW has provided written evidence of the letters being sent by email, the address of which they checked. I wonder if it ended up in Mr W's junk box as sometimes occurs.
28. There is no dispute that Mr W should have received a retirement pack six months before his NRD. This amounts to a loss of expectation but not a financial loss. It is clear this has caused Mr W significant distress and inconvenience. The Trustee has offered Mr W £500 in acknowledgment of this which I consider to be reasonable. If Mr W has not already done so and wishes to accept the Trustee's offer he should make arrangements for its payment with the Trustee.
29. I do not uphold Mr W's complaint.

**Anthony Arter**

Pensions Ombudsman  
25 February 2020

## Appendix

### **The Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013 (SI 2013/2734)**

#### Regulation 20

(1) The information mentioned in paragraph (2) must be given to a person in accordance with this regulation where benefit under the scheme has, or is about to, become payable to the person.

(2) The information is the information listed

(a) in paragraphs 6 to 9 of Schedule 7, and

(b) in Part 1 of that Schedule where the person has an opportunity to select an annuity under any rights and options in relation to the death of the member.

(3) The information mentioned in paragraph (2)(a) must be given -

(a) where benefit becomes payable on or after normal pension age before benefit becomes payable, if practicable and in any event within one month after benefit becomes payable, or

...

#### Schedule 7 Part 2 – Information on accessing benefits for members and survivors

6 The amount of benefit that is payable.

7 If benefit is payable periodically—

(a) any conditions for continuing to make the payments, and

(b) any provisions which would allow the payments to be altered.

8 Any rights and options that persons have on the death of the member or beneficiary of the scheme.

9 Any procedures for exercising the rights and options referred to in paragraph 8.