

## Ombudsman's Determination

Applicant	Mr N
Scheme	Caterpillar Pension Plan ( <b>the Plan</b> )
Respondent	The Trustee of the Caterpillar Pension Plan ( <b>the Trustee</b> )

## Outcome

1. I do not uphold Mr N's complaint and no further action is required by the Trustee.
2. My reasons for reaching this decision are explained in more detail below.

## Complaint summary

3. Mr N's complaint is that the Trustee failed to provide him with information about all the pension options available to him.

## Background information, including submissions from the parties

4. The Plan is a Defined Benefit (**DB**) pension scheme. In April 2015, the Trustee sent Mr N a Plan newsletter (**the 2015 Newsletter**). The 2015 Newsletter stated that "from 6 April 2015, the pension rules on how and when you can draw your pension will change". It stated that Mr N had the option to transfer his Plan entitlement to a Defined Contribution (**DC**) pension in order to take advantage of the new flexible entitlement options.
5. In April 2016, the Trustee sent Mr N its 2016 Plan Newsletter (**the 2016 Newsletter**). The 2016 Newsletter also contained a section on transferring out of the Plan and it stated that "you have a legal right to transfer your pension benefits to another registered pension scheme if you wish, and the Caterpillar Pensions Team can provide a quotation on request".
6. On 25 July 2016, the Plan Administrator sent Mr N a retirement quote calculated as at September 2016 (**the Quote**). The Quote stated that Mr N could request a Cash Equivalent Transfer Value (**CETV**) from the Plan Administrator.
7. In September 2016, Mr N retired from the Plan, taking a pension and lump sum. He continued to work in his original job for Caterpillar and joined the Caterpillar DC Pension Plan (**the DC Plan**).

8. In 2017, Mr N says he discovered that he was entitled to a CETV from the Plan.
9. On 9 May 2018, after an exchange of correspondence, Mr N made a complaint under the Plan's Internal Dispute Resolution Procedure (**IDRP**). He said that the 2015 legislative changes (**Pension Flexibilities**) were 'the biggest changes in UK pension history' and too little attention was paid to this in Plan communications by the Trustee. Mr N also said the Trustee had not conducted any seminars or 'pension surgeries' for Plan members. Mr N argued the Trustee was too slow to react to the change in legislation. He also said the Trustee provided him with insufficient information about his Plan entitlement at retirement and he had lost the opportunity to investigate the suitability of a transfer.
10. On 1 June 2018, the Trustee provided its Stage 1 IDRP response. The Trustee did not uphold Mr N's complaint. It enclosed copies of previous Plan newsletters from 2015 and said it had provided sufficient guidance on Pension Flexibilities. The Trustee also said it could not provide advice to members and that all Plan communications stated members should consider taking independent financial advice before retiring. The Trustee also noted pension surgeries were subsequently made available to members. It argued that transfer guidance had been provided to Mr N several times and that transferring to a DC pension scheme had been possible prior to the introduction of Pension Flexibilities.
11. On 11 October 2018, Mr N asked for his complaint to be considered under Stage 2 of the IDRP. Mr N maintained that the guidance provided by the Trustee was vague at the time of his retirement. He said subsequent, clear information provided by the Trustee in 2018 should have been available much sooner. Mr N also considered that even if the Trustee had met its legal duty, he did not agree it had complied with the Company's stated ethics.
12. On 8 January 2019, the Trustee provided its IDRP Stage 2 response and did not uphold Mr N's complaint. It said the Trustee was legally distinct from Mr N's employer and, in fulfilling its legal duties as a Trustee, it acted in accordance with the Company's ethics. The Trustee agreed Pension Flexibilities were a significant legislative change but argued that market practice had 'developed gradually' since 2015. It said it provided more guidance to members in 2018 in response to the controversy surrounding the British Steel Pension Scheme, the Plan's imminent closure in 2019 and higher rates of transfers from the Plan.

### **Adjudicator's Opinion**

13. Mr N's complaint was considered by one of our Adjudicators who concluded that no further action was required by the Trustee. The Adjudicator's findings are summarised below:-
  - The Trustee improving the guidance it provides to members is not evidence that previous member communications were deficient. It was reasonable for the

Trustee to tailor its communication strategy to reflect changes in market practice and member behaviour. These changes would only become apparent over a period of years. Without hindsight, the Trustee could not reasonably have anticipated how strongly Pension Flexibilities would influence member behaviour.

- The Trustee does not have further duties to Mr N because it is linked to Caterpillar as a sponsoring employer. It cannot provide Mr N with financial advice on his retirement options. Nor do the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013 (**the Regulations**), require the Trustee to provide a CETV to Mr N as part of a retirement quote.
- The information provided by the Trustee is clear and consistent through all Plan communications and complies with its legal duty under the Regulations.
- The Quote states that CETV's are available on request from the Plan's Administrator. As part of making a considered retirement decision, it would have been reasonable for Mr N to have ascertained that he was entitled to transfer much earlier than he did.

14. Mr N did not accept the Adjudicator's Opinion and the complaint was passed to me to consider. Mr N 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 N for completeness.

### **Ombudsman's decision**

15. Mr N says that "the employer has a major part to play in the delivering of the information". However, Mr N's complaint is solely against the Trustee. I cannot make findings in respect of Mr N's employer because it is not a party to the complaint. If Mr N would like to bring a complaint to my Office about his employer, then he should complain to it directly in the first instance.
16. In his comments, Mr N accepts that the Trustee 'may' have met its obligations under the Regulations. He says that transfer guidance in newsletters was limited and poorly placed. Mr N argues that guidance should have been prominent. However, the Trustee cannot give financial advice to members about their retirement options. The decision was entirely Mr N's to consider and make. For the reasons the Adjudicator noted, I find that the Trustee has met its legal obligation under the Regulations to provide suitable guidance.
17. Mr N argues that the average person is uneducated about pensions and totally reliant upon a Trustee for information. I appreciate that planning for retirement can be a daunting proposition and I do not expect Mr N to be an expert on pensions. However, as the Trustee provided suitable guidance, I would have expected Mr N to ascertain that he was entitled to a transfer much earlier than he did.

**PO-29164**

18. I do not uphold Mr N's complaint.

**Anthony Arter**

Pensions Ombudsman

8 July 2019