

## Ombudsman's Determination

Applicant	Mrs N
Scheme	Scottish Teachers' Superannuation Scheme (the <b>Scheme</b> )
Respondents	Scottish Public Pensions Agency ( <b>SPPA</b> )

## Outcome

1. Mrs N's complaint is upheld and to put matters right SPPA should pay redress to her as set out in my directions below.
2. My reasons for reaching this decision are explained in more detail below.

## Complaint summary

3. Mrs N has complained that SPPA provided incorrect information to Old Mutual Wealth, when she transferred her benefits, which resulted in a delay in the investment of her funds and a loss of £5,685.

## Background information, including submissions from the parties

4. On 12 June 2014, SPPA received a request for a Cash Equivalent Transfer Value from Mrs N's financial adviser.
5. SPPA confirmed that, provided the relevant documentation was received before 20 October 2014, Mrs N's 60<sup>th</sup> birthday, the transfer would be completed.
6. The transfer value of £164,883.86 was received by Old Mutual Wealth on 10 November 2014. On 11 November, SPPA received two telephone calls from Old Mutual Wealth in which SPPA said that the benefits were crystallised. In other words, that they were due to come in to payment and not simply being transferred. SPPA do not deny that these conversations took place.
7. As a result of this information, Old Mutual Wealth had to revise the way in which they dealt with the case and had to obtain more information from SPPA relating to pension drawdown.
8. The correct position was eventually confirmed to Old Mutual Wealth by SPPA on 28 November 2014. The funds were then invested.

9. SPPA have pointed out that there was also an issue regarding the fact that the receiving scheme could not accept the GMP and say that this was the reason for the delay.

### **Adjudicator's Opinion**

10. Mrs N's complaint was considered by one of our Adjudicators who concluded that further action was required by SPPA. The Adjudicator's findings are summarised briefly below:
  - SPPA provided incorrect information which fundamentally changed the way in which Mrs N's benefits were to be dealt with. This directly impacted on Old Mutual Wealth's ability to invest the funds which resulted in a financial loss to Mrs N.
  - The issue with the GMP did not have a material effect on the delay.
11. SPPA did not accept the Adjudicator's Opinion and the complaint was passed to me to consider. SPPA provided their further comments which do not change the outcome. I agree with the Adjudicator's Opinion summarised above, and I will therefore only respond to the key points made by SPPA for completeness.

### **Ombudsman's decision**

12. SPPA say that it was Mrs N's financial adviser who instigated the line of questioning regarding whether or not the benefits were crystallised and that both he and the SPPA officials who responded to it should have realised that the transfer payment represented uncrystallised funds.
13. The evidence shows that it was Old Mutual Wealth, and not the adviser, who instigated the line of questioning. I agree the adviser would have been aware that this was a transfer, and not a benefit crystallisation event, but his advice was not sought until 28 November 2014.
14. I find SPPA's argument that their officials should have realised that the transfer payment represented uncrystallised funds somewhat misconceived in view of the fact they told Old Mutual Wealth the opposite.
15. And, given that Mrs N was aged 60 at the time and therefore entitled to draw her benefits, it was perfectly feasible that the funds could have been crystallised.
16. SPPA do not agree with the Adjudicator's view that the issue of the GMP was immaterial. They say that all the documentation relevant to Mrs N's benefits in the Scheme confirms that there was a GMP liability of £302.72, but that it was not until 11 November 2014, by which time the transfer value had been received by Old Mutual

Wealth, that SPPA were told that the receiving scheme could not accept the GMP liability.

17. They say that at that point it became clear that the transfer of funds could not proceed until that issue was resolved, and that it was not until 28 November 2014, that it was established that Mrs N was prepared to give up her entitlement to the GMP as part of the transfer. They say the need to resolve this issue fell to SPPA, that it was progressed as general business under routine service standards and that there was no indication from Mrs N's adviser, or from Old Mutual Wealth, of a need to speed up that process. They say that their service standards are to reply to an email enquiry within 15 Working days and that this was concluded within that timeframe.
18. I do not accept that the question of whether or not the receiving scheme could accept the GMP contributed to Mrs N's loss. As SPPA say, it was clear from earlier documentation that the transferring benefits included a GMP liability. Mrs N's adviser has confirmed that she was aware of this, and aware that the GMP would be lost on transfer. This point was not raised with the adviser until 28 November 2014, when he immediately confirmed Mrs N's wishes.
19. Old Mutual Wealth already held the funds at this point and there is no evidence that these could not have been invested immediately. The reason for the delay in investing Mrs N's transfer value was the incorrect information provided by SPPA regarding whether or not the funds were crystallised. Therefore, I uphold Mrs N's complaint.
20. Mrs N's adviser has suggested that, as she is now in income drawdown, any redress should include interest. Having considered this point, I have decided that it is more appropriate to return her to the position she would have been in had her funds been invested at the appropriate date.

## **Directions**

21. Old Mutual Wealth has calculated that Mrs N has lost investment income of £5,685 as a result of the delay between 10 and 28 November 2014. To put Mrs N back in to the position she should have been in had the error not occurred, within 28 days SPPA are to pay £5,685 to her pension fund with Old Mutual Wealth, together with any further investment loss on that sum.

**Anthony Arter**

Pensions Ombudsman  
12 July 2016