

Ombudsman's Determination

Applicant	Mr N
Scheme	Charles Richard McLauchlan Retirement Benefits Scheme (the Scheme)
Respondent	Kuhrt Leach LLP

Complaint Summary

1. Mr N complains that Kuhrt Leach LLP failed to respond to his enquiries about his Scheme benefits, leaving him unable to plan for his future, access his Scheme benefits or exercise his transfer rights.

Summary of the Ombudsman's Determination and reasons

2. The complaint should be upheld against Kuhrt Leach LLP because they failed to respond to Mr N over a prolonged period of time, regarding his Scheme benefits. This constitutes maladministration, which has caused him significant distress and inconvenience.

Detailed Determination

Material facts

3. Kuhrt Leach LLP was a Limited Partnership.
4. On 27 February 2013, Mr N transferred £18,960.45 into the Scheme from a Friends Life Stakeholder plan.
5. Kuhrt Leach LLP wrote to Mr N on 25 April 2014 in connection with the Scheme saying,

“Further to our ongoing discussions with HMRC we are now able to process pension transfer requests and release your funds to an authorised pension scheme with full advice and recommendation from an IFA”.
6. Kuhrt Leach LLP have not responded to numerous letters and phone calls made by Mr N about his Scheme benefits.
7. My Adjudicator has contacted Companies House to ascertain the current status of Kuhrt Leach LLP. As a result he has established that Kuhrt Leach LLP was dissolved in March 2016.

Conclusions

8. I am satisfied that Kuhrt Leach LLP failed to respond to Mr N over a prolonged period of time, regarding the status and security of his Scheme benefits. This constitutes maladministration, which has caused him significant distress and inconvenience.
9. Mr N cannot be deprived of a statutory right to transfer under Section 94 of the Pension Schemes Act 1993. Kuhrt Leach LLP are obliged to deal with it in accordance with his statutory rights.
10. The complaint is brought against the Scheme administrator. It is clear from Kuhrt Leach LLP's letter to Mr N of 25 April 2014 that they were responsible for the administration of the Scheme. They have failed to act on Mr N's requests for information, and to facilitate a transfer of his benefits. Kuhrt Leach LLP's lack of action is maladministration.
11. I realise that for Mr N it is extremely frustrating that the partnership has now been dissolved.
12. Although, I uphold Mr N's complaint against Kuhrt Leach LLP and set out my directions below which are enforceable in a county court, Kuhrt Leach LLP has now been dissolved, so my directions alone may be of little positive effect. However, it is open to Mr N to take legal advice in pursuing this matter further, in particular to see whether it is possible to apply to the Court for the partnership to be re-instated, under S1029 Companies Act 2006. Should this prove possible, my directions can then be enforced if necessary against the re-instated LLP entity.

Directions

13. I direct that within 28 days of this determination Kuhrt Leach LLP are to:
 - provide a full written response to Mr N's questions regarding his Scheme benefits, including the current transfer value, and assist him in exercising his statutory rights. Should he seek to exercise his statutory right to transfer then, within 28 days of Mr N requesting a transfer value to a named scheme that is prepared to accept it, they are to pay the transfer value to that arrangement.
 - pay Mr N £1,000 to reflect the significant distress and inconvenience caused to him by their maladministration.

Anthony Arter
Pensions Ombudsman

27 September 2016