

## Ombudsman's Determination

Applicant	Mr N
Scheme	HG UK Pension Plan (the <b>Plan</b> )
Respondents	The trustees of the Plan (the <b>Trustees</b> )

### Outcome

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

### Complaint summary

3. Mr N's complaint against the Trustees is that:
  - they moved his benefits from the Plan to the Master Trust without his consent;
  - they ignored his recent request for information; and
  - the transfer value from the Plan to the Master Trust was incorrect.

### Background information, including submissions from the parties

4. Mr N joined the RSP Plan which preceded the Plan in July 1998, shortly after he was employed by HG. His benefits under both the RSP Plan and the Plan were on a defined contribution basis.
5. In May 2004, Mr N's benefits from the RSP Plan were transferred to the Plan.
6. In December 2009, the Trustees wrote to Mr N in response to a complaint he had raised. The complaint included a dispute by him that the amount transferred from the RSP Plan to the Plan was incorrect. The Trustees stated that he had not explained why he disagreed with the amount transferred. However, they provided him with the following explanation:

"During May 2004 your funds in the RSP Plan were transferred across into [the Plan] as detailed below:

Legal & General 70/30 Fund 16898 units £1.63598 £27,644

Legal & General 60/40 Fund 17384 units £0.70201 £12,203

£39,847

At this time no further units were purchased in either of the above funds as your monthly contributions from this date were invested in the 5 Year Index Linked Gilt Fund.

In October 2014 the Legal & General 70/30 fund was closed and the value of the funds at that time transferred into the Legal & General 60/40 Fund as follows:

Legal & General 70/30 Fund 16898 units £1.58224 £26,737 Sold

Legal & General 60/40 Fund 29815 units £0.896759 £26,737 Purchased

Legal & General 60/40 Fund 17384 units £0.896759 £15,589 Already Purchased

Total of units in 60/40 Fund 47200 units £0.896759 £42,327 Value Oct 2004

**Value as at 14<sup>th</sup> December 2009**

60/40 Fund 47200 units £1.24761 £59,144”

7. In October 2013 the Plan was closed to future contributions and contributing members were able to join the Master Trust, a defined contribution pension scheme. An announcement was issued by the Trustees to the members of the Plan in June 2014 explaining:
- the member had the option to transfer his/her fund under the Plan either to the Master Trust or to another arrangement of his/her choice;
  - they had reviewed the range of funds that are held within the Master Trust and had negotiated terms for the transfer;
  - there will be no cost to the member in respect of the transfer to the Master Trust;
  - if the transfer had not been completed by 29 August 2014, the member's fund will be transferred to the Master Trust;
  - the member will be free to transfer to another arrangement of his/her choice after transferring to the Master Trust;
  - the member's fund will be transferred to funds within the Master Trust that are the nearest alternative to his/her investments in the Plan; and
  - the Master Trust has a similar legal structure to the Plan and includes a board of trustees.
8. HG's UK HR Manager wrote to Mr N in September 2014, in relation to objections he had raised in his emails in June and August 2014 about the transfer of his benefits

from the Plan to the Master Trust. There is no evidence to show that he had raised further queries to which he did not receive a response.

9. Mr N has sent us numerous emails and statements, but none of these clearly state what value should have been transferred for him to the Master Trust and how the value is calculated. He has also complained about the units in the Legal & General 70/30 Fund which were sold and the sale of units in Legal & General 60/40 Fund. It is unclear when the sale of the latter took place, but Mr N appears to be concerned that additional units should have been in the fund at some prior to the transfer.
10. In addition, in response to our enquiries, Mr N has suggested that his complaint may also include his concerns about the underlying investments of both the Plan and the Master Plan.
11. Mr N has also referred us to an independent consulting actuary, Mr P, who he says was advising him in connection with his benefits under the Plan.
12. In response to our enquiries, Mr P has said that he was not exactly advising Mr N. He explained that many years ago, he had done some calculations for Mr N's former solicitor in respect of a dispute that Mr N had with his former employer. He added that there was no evidence to show that Mr N had lost out as much as he claimed (perhaps £2,000 as opposed to a claim of £200,000), which was due to promises Mr N said had been made but not honoured. He believed that the promises had been made, but Mr N's solicitors could not prove they had. He had also periodically done some calculations when Mr N emailed him, but he has never been able to find significant losses he could quantify.

## **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 Trustees. The Adjudicator's findings are summarised briefly below:
  - Under The Occupational Pension Scheme Preservation of Benefits Regulations 1991 (**1991 Regulations**), transfers may be made without the member's consent, provided that there is an actuarial certificate that the member's benefits are protected in the receiving scheme and "broadly no less favourable". Therefore this part of Mr N's complaint cannot be upheld.
  - No evidence to show that any recent request for information by Mr N has been ignored by the Trustees. Therefore this part of his complaint cannot be upheld.
  - No evidence to show that the transfer value from the Plan to the Master Trust was incorrect. Therefore this part of his complaint cannot be upheld.

## **Ombudsman's decision**

14. Mr N has made numerous claims some of which relate to the transfer between the RSP Plan and the Plan. These are not part of the complaint he has brought to us. Even if they were part of his complaint, we would not be able to investigate them because they would be outside the three year time limit. The reason for this is because the transfer from the RSP Plan to the Plan happened in 2004 and his complaint was not brought to us until 2015, 11 years later.
15. With regard to Mr N's suggestion that his complaint may include his concerns about the underlying investments of the Plan and Master Plan, once again, these are not part of the complaint he brought to us and therefore need to be addressed by the Trustee before we can consider them. In addition, even if they were part of his present complaint, it is up to the Trustees to decide the types of investments offered under the Plan and the Master Plan. The fact that he is unhappy with the investment offered does not mean that there has been maladministration.
16. The 1991 Regulations mainly relate to transfers from a defined benefit scheme to either another defined benefit scheme or a defined contribution scheme. Where a transfer is from one defined contribution scheme to another, as is the case here, provided the value of the benefits offered under the receiving scheme is no less than the transferring scheme, no member consent is required. I can see no evidence to suggest that the value of the benefits offered under Master Plan is less than the Plan.
17. There is no evidence to show that the Trustees have failed to provide Mr N with information he had recently requested or that the transfer value from the Plan to the Master Trust was incorrect.
18. Therefore, for the reasons given above, I do not uphold Mr N's complaint.

**Karen Johnston**

Deputy Pensions Ombudsman  
20 July 2016