

## Ombudsman's Determination

Applicant	Mr E
Scheme	Guardian Royal Exchange Assurance Scheme
Respondents	Guardian Financial Services ( <b>Guardian</b> )

## Outcome

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

## Complaint summary

3. Mr E has complained that Guardian will not pay him his entitlement that he accrued as a member of the STEP Management Services Limited Pension Scheme, later known as Cobalt (UK) Limited Pensions and Life Assurance Scheme (**the Scheme**).

## Background information, including submissions from the parties

4. In March 1978 Mr E left service and on 14 September 1978, Guardian informed Mr E's insurance broker that, "a paid up pension of £321.26 per annum has been recorded for [Mr E]..."
5. Mr E changed his address in 1984 but did not inform Guardian about his new address.
6. In 2014 Mr E asked Guardian about his pension, and they replied that they were unable to trace his pension. Mr E contacted the Pensions Advisory Service in order to assist him in locating his pension. Mr E says it took him two years to find out what happened to his pension.
7. Guardian confirmed to this Service that Mr E's benefits were transferred to Legal & General in December 1999. A transfer value of £1,221.49 was paid across. Legal & General are now responsible for paying his pension.
8. Guardian also sent this Service a copy of the Scheme discontinuance note. In which, it said that the Scheme closed to new entrants in 1991. The employer went into receivership and Receivers were appointed on 30 December 1991. During the

Scheme's wind up, the Scheme benefits were reduced by 0.92 and accrued rights were paid first with the residual amount paid across to Legal & General to buy out the deferred members' benefits. Effectively those members who had a GMP entitlement were given preference with the residual amount used to secure pensions with Legal & General through a buy-out policy. Mr E's name was on the list of members whose benefits were secured with Legal & General.

## **Adjudicator's Opinion**

9. Mr E's complaint was considered by one of our Adjudicators who concluded that no further action was required by Guardian. The Adjudicator's findings are summarised briefly below:
  - The principal employer went into receivership and this led to the wind up of the Scheme. The Scheme benefits had to be divided up between the members who had a GMP entitlement and those who did not. As Mr E did not have a GMP entitlement, he could then only receive a pension based on whatever was left from the Scheme after the GMP entitlement was secured. The pension Mr E was quoted differed significantly from what he was expecting but he is in receipt of a pension based on the transfer value Legal & General received.
10. Mr E did not accept the Adjudicator's Opinion and the complaint was passed to me to consider. Mr E provided his further comments many of 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 Mr E for completeness.

## **Ombudsman's decision**

11. Mr E says that he expects what his insurance broker was told in 1978 to be honoured. He says his pension was paid up and therefore Guardian should honour what he was told.
12. I recognise that Mr E is unhappy with the pension quoted by Legal & General, as it is less than what he was expecting. The 1978 note from Guardian did say that a pension of £321.26 per annum had been recorded. Even accounting for no revaluations, Mr E expected to receive at least £321.26 as a deferred member of a defined benefit scheme.
13. The only evidence which now remains is the 1978 letter and the scheme discontinuance notice. The 1978 letter did not identify a separate buy out policy in Mr E's name and there is no evidence that one ever existed. In those circumstances, as a deferred member, he remained vulnerable to any adjustments which had to be made in the event that the scheme was wound up without enough money to honour all of the member benefits in full. I have no reason to doubt that the statement about his benefit level was true at the time of making, or that it would have been honoured

had the principal employer not gone into receivership, which triggered the Scheme wind up. As a result of a scheme wind-up preference was given to those with accrued rights such as GMP. The residual amount was then used to secure benefits for deferred members, through a buy-out policy with Legal & General.

14. As Mr E did not have any accrued rights, his pension transferred to Legal & General. The transfer value was based on his share of the residual fund. Legal & General are now responsible for paying Mr E's pension. This may well be less than the £321.26 he was expecting. However there is no evidence that the scheme rules entitled him to any more than this in the circumstances which occurred.
15. Mr E wants to be compensated for the time it took Guardian to locate his pension records after he enquired in 2014. Bearing in mind his pension was transferred to Legal & General in 1999, and the files related to the Scheme wind up were scheduled to be destroyed in 2010, I can understand why Guardian were unable to immediately locate any records.
16. It is a requirement under the disclosure regulations for pension schemes to take reasonable measures to contact members during wind up of schemes and had this occurred Mr E would have had relevant information about what had happened to his benefit at an earlier date. However, Mr E changed his address in 1984 after he had left the Scheme and did not inform Guardian of the change (albeit I appreciate he says did not realise he needed to). It is now impossible to reconstruct the member notification process which took place at the time of winding up the scheme. . Although the circumstances in which Mr E has found himself are unfortunate, there is no evidence which persuades me that Guardian failed to do what they were supposed to.
17. Therefore, I do not uphold Mr E's complaint.

**Karen Johnston**

Deputy Pensions Ombudsman  
4 July 2016