

## Ombudsman's Determination

Applicant	Dr R
Scheme	Teachers' Pension Scheme ( <b>the Scheme</b> )
Respondent	Teachers' Pensions

## Outcome

1. Dr R's complaint against Teachers' Pensions is partly upheld, but there is a part of the complaint I do not agree with. To put matters right (for the part that is upheld) Teachers' Pensions should pay Dr R £500 as compensation for the distress and inconvenience he has experienced.
2. My reasons for reaching this decision are explained in more detail below.

## Complaint summary

3. Dr R has complained that Teachers' Pensions has caused delays when providing a guaranteed statement of entitlement. As a result Dr R is no longer able to transfer his pension benefits to another scheme and may now be liable for additional tax on any lump sum payment he receives.

## Background information, including submissions from the parties

4. Dr R is a member of the Scheme which is an unfunded public sector defined benefit scheme.
5. Dr R has moved to New Zealand and, as a result, wants to transfer his benefits from the Scheme into a Recognised Overseas Pension Scheme (**ROPS**).
6. On 5 February 2015, as the first stage in the process to transfer out of the Scheme, Dr R requested a Guaranteed Transfer Value (**GTV**). However, Dr R's request was not supported by the requisite application from the receiving scheme.
7. Dr R emailed Teachers' Pensions, on 1 March 2015, asking for an update on the progress of the GTV calculation. Teachers' Pensions responded on 13 March 2015, explaining it had written to him on 11 February 2015, to say a request for a

GTV also needed to be made by the ROPS. Dr R said that he had not received the letter Teachers' Pensions referred to.

8. On 30 March 2015, Teachers' Pensions received the request for a GTV from the ROPS and work on the GTV started. The following day, 31 March 2015, Teachers' Pensions asked Dr R to confirm his date of birth, this was needed as the date of birth held on file had not been verified. Dr R emailed a copy of his passport as proof the same day.
9. On 6 April 2015, the Pensions Schemes Act 2015 (**the 2015 Act**), came into force. A provision within the 2015 Act placed restrictions on members transferring out of unfunded public sector defined benefit schemes. As a result, in order for the transfer to proceed, the transfer application would need to have been received by 5 April 2015, before the change in legislation. After this date, transfers would have been restricted.
10. Dr R's GTV had not been calculated by 6 April 2015 when the 2015 Act came into effect. As a result, the transfer to the ROPS Dr R had selected could not proceed. Consequently, Teachers' Pensions emailed Dr R, on 27 April 2015, asking him if he still wanted to proceed with the request. Dr R replied saying "please continue my application to transfer out."
11. No GTV was subsequently provided by Teachers' Pensions to Dr R.
12. In his application to this office, Dr R has said:

"In an attempt to transfer out my pension using the systems provided I have had to initiate contact with Teachers' Pension Scheme on at least six occasions without response. The organisation's systemic inability to communicate has meant I have had to do this by telephone calling internationally at 9 and 10pm New Zealand time in order to talk to someone. This caused obvious financial costs. I have furthermore suffered the immense frustration of being told repeatedly that someone will contact without followup. This has caused myself and my family significant distress."

## Adjudicator's Opinion

13. Dr R's complaint was considered by one of our Adjudicators who concluded that further action was required by Teachers' Pensions. The Adjudicator's findings are summarised briefly below.
  - The Occupational Pension Schemes (Transfer Values) Regulations 1996 (**the 1996 Regulations**) permit Teachers' Pensions three months in which to provide a GTV. In view of the statutory timescales provided by the 1996 Regulations, the Adjudicator considered that it is reasonable to expect that a GTV can take months, rather than days, to calculate.

- Dr R says he did not receive the letter Teachers' Pensions sent on 11 February 2015, informing him that the receiving scheme also needed to request a GTV, but there is evidence the letter was generated and posted. That said, the Adjudicator considered Teachers' Pensions could have taken a more realistic approach and emailed the letter – particularly as Dr R lived in New Zealand.
  - By the time Teachers' Pensions requirements were met, and work could start on the calculation, there were only four working days for the calculation to be completed before the 2015 Act came into force. It is unrealistic to expect that all of the requirements could be met, allowing Dr R to transfer to the ROPS within this timeframe.
  - But, the statutory position is that, if requested by the member, Teachers' Pensions has three months in which to provide the GTV. Dr R confirmed on 2 May 2015, that he still wanted a GTV regardless of whether he could transfer to New Zealand or not. So Teachers' Pensions still needed to provide a GTV.
  - Dr R did not receive a GTV from Teachers' Pension, even after confirming that he still wanted one. The Adjudicator recommended that Teachers' Pensions should pay Dr R £500 compensation for the significant distress and inconvenience he has experienced.
14. Dr R accepted the Adjudicator's Opinion. Teachers' Pensions did not accept the Adjudicator's Opinion and the complaint was passed to me to consider. Teachers' Pensions provided its further comments which do not change the outcome.
15. Teachers' Pensions said that the Adjudicator recommended compensation as a result of the failure to provide the GTV. Yet there is no evidence of the distress caused by this failure, as opposed to the transfer not being completed.
16. It has also pointed out that at no stage of Teachers' Pensions internal dispute resolution procedure did Dr R mention that this issue had caused him distress.
17. I agree with the Adjudicator's Opinion, summarised above, and I will therefore only respond to the key points made by Teachers' Pensions for completeness.

### **Ombudsman's decision**

18. Dr R has, in his application to this office, set out the difficulties he has experienced when dealing with Teachers' Pensions. I find it likely that these problems will have been exacerbated by the fact that Dr R resides abroad. So, for example, when telephoning Dr R will have to account for a significant time difference and postal correspondence will take longer to be delivered.

19. In view of the time constraints associated with obtaining a GTV and applying to transfer from the Scheme I can appreciate that Dr R will have had genuine concern at the time it would take Teachers' Pensions to deal with his request, and would be frustrated if he felt matters were not progressing.
20. Teachers' Pensions has pointed out that there is no requirement to correspond with members by email. It says the risk of fraud, which is higher in relation to transfer requests, means post remains the principle method of communication. But I do not find this to be a compelling argument – although there is no formal requirement to do so, I see no reason why Teachers' Pensions could not have emailed the letter it sent in February 2015, particularly as the letter contained no personal information which could be used to identify Dr R.
21. Teachers' Pensions' letter of February 2015 was added to the online document portal on 13 March 2015, after Dr R had enquired about the status of his application. But this could reasonably have been uploaded sooner – for example when the letter was posted. Had this happened it is unlikely that Dr R would have had to enquire about the progress of his request.
22. When contacted by Teachers' Pensions, following the introduction of the 2015 Act, Dr R said, "please continue my application..." Although Dr R's response was not explicit in requesting a GTV, I consider that a reasonable interpretation of this – bearing in mind that as a lay person Dr R cannot be expected to be fully conversant with pension terminology – is that he did want to proceed with the request for a GTV. But, if there was any doubt about this, Teachers' Pensions should, at the very least, have clarified the situation with Dr R rather than ignoring the request.
23. Dr R has provided examples of instances where he contacted Teachers' Pensions to enquire about the GTV, after his email dated 2 May 2015, confirming he still wanted to proceed. Dr R's enquiries were not fully addressed, resulting in him having to contact Teachers' Pensions on several occasions; and taking account of the different time zones, it is inevitable that he would have suffered considerable distress and inconvenience.
24. Therefore, I uphold Dr R's complaint in part. Teachers' Pensions was not responsible for the delay Dr R has alleged, which resulted in him being unable to transfer to the ROPS. However, it did fail to deal with Dr R's request for a GTV, causing Dr R distress and inconvenience in waiting for a response that was not forthcoming.

**PO-9430**

**Directions**

25. Teachers' Pensions shall, within 21 days of the date of this determination, pay Dr R £500 for the significant non-financial injustice he has suffered.

**Anthony Arter**

Pensions Ombudsman  
31 January 2017