

Ombudsman's Determination

Applicant	Mr K
Scheme	NOW: Pensions Trust (the Plan)
Respondent	NOW: Pensions (NOW)

Outcome

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

Complaint summary

3. Mr K has complained about a £363 reduction in the value of his pension after it was transferred into the Plan in 2015. He believes this value change is as a result of an undisclosed transfer-in charge from NOW.
4. Mr K has also complained about the delays by NOW in dealing with his complaint, specifically, he says it delayed responding to his request to reverse the transfer, until it was too late to do so.

Background information, including submissions from the parties

5. In 2015, Mr K joined his workplace pension scheme, whilst in employment with Helitune Limited (**Helitune**). In July 2015, Mr K contacted NOW to enquire about transferring his pension from Helitune into the Plan. NOW confirmed this was possible, and began the process of arranging a transfer-in.
6. On 16 October 2015, NOW wrote to Mr K to confirm that the transfer had been completed, and the transfer value of £8,627.93 had been received. This letter confirmed that the monies had been invested in the Plan and provided information about the units purchased. NOW went on to explain that the value of units is dependent on investment returns and financial conditions at the time.
7. On receipt of this letter, Mr K emailed NOW to query the value of the Plan. Mr K stated that NOW had not provided full details of the funds invested in or the unit values, noting that the total units purchased did not match the transfer value. Mr K also requested details of any charges applied on transferring-in, and information on

how to access the Plan details online as he would be leaving employment with Helitune on 31 December 2015.

8. On 21 December 2015, NOW wrote to Mr K in response to his email. It confirmed that the value of the Plan at that time was £8,942.26, and provided a breakdown of contributions applied that year. NOW stated that the value of the account would fluctuate "... in line with the value of the underlying unit prices of the fund..." and advised that the value given reflected the most up-to-date information available at the time of preparation. NOW acknowledged there were some issues with the accuracy of information presented online, and it was working to resolve the matter as soon as possible. A leaflet was enclosed with the letter, providing details of the funds the Plan was invested in.
9. On 26 January 2016, Mr K wrote to NOW, stating that it had not answered any of his original questions and arguing that the statement provided on 21 December 2015 did not show the transferred-in value. He attached a copy of the email he had sent previously, and requested that NOW answer all of his questions regarding charges related to the transfer-in, and how to access his online account since leaving employment at Helitune. Mr K also requested confirmation of the transfer-in fund value, and advised that he would be making a formal complaint to the Pensions Regulator and take action to recover the transferred-in monies, plus costs, if no response was forthcoming within 28 days.
10. On 10 February 2016, NOW responded to Mr K's letter. It confirmed the value of the Plan on that date had increased to £9,099.31. A breakdown of contributions and the transferred-in value of £8,627.93 was provided. NOW reiterated that the value of the account would fluctuate in line with the unit prices, and advised that there was no transfer-in charge applied to Mr K. NOW provided instructions on how Mr K could register his online account, to enable access, and enclosed a document detailing all costs and charges associated with the Plan.
11. On 24 February 2016, NOW sent a further letter to Mr K, confirming that he had left the Plan on 31 December 2015, having left employment at Helitune. The letter advised that no further contributions would be paid into the Plan, but the contributions made to date would remain invested until Mr K retired, or transferred his pension to another provider.
12. On 28 February 2016, Mr K wrote to NOW, again stating that it had failed to answer his questions regarding fund values and any charges applied to his transfer-in. He said that, whilst NOW had informed him the current value of the Plan was £9,099.31, the contributions totalled £9,463.13, which meant there was a discrepancy of £363.82 unaccounted for. Mr K concluded that he therefore required NOW to reverse the transfer and return the £8,627.93 transferred-in, with no fees or charges being applied. He also said that he would require a statement of all charges and deductions NOW had made, after the sum was returned.

13. On 9 March 2016, NOW responded to Mr K. It confirmed that the fund value quoted in the 10 February 2016 letter had been correct, but noted the value as of 2 March 2016 had increased to £9,139. NOW advised that all contributions had been processed and invested, but reiterated that the actual fund value fluctuates and can increase or decrease in line with market conditions at the time. NOW stated that the only applicable fees in the Plan were a monthly charge of 0.0167% of the value (up to a maximum of £1.50), plus a 0.3% annual management charge. NOW informed Mr K that it would not be able to oblige his request for the transfer to be reversed, as it had taken place more than four months previously. NOW offered to arrange a transfer-out, and provided information on how Mr K could obtain a transfer quote.
14. On 7 May 2016, Mr K wrote to NOW, again requesting that his transfer into the Plan be reversed, due to its '... refusal to provide information or account for charges.' Mr K also made a formal complaint under NOW's Internal Dispute Resolution Procedure (**IDRP**).
15. On 2 October 2016, Mr K again wrote to NOW. He argued that it had been several months since his IDR P request, and to date he had only received acknowledgements of the request by NOW, but no actual response. Mr K stated that he wanted his pension value returned in full, as per his instructions of February 2016, and he required access to his online account with NOW.
16. On 1 November 2016, NOW issued its Stage 1 IDR P response to Mr K. It provided a brief timeline, summarising the communications and actions taken in relation to his transfer-in, since July 2015. It confirmed the only charge applied to the Plan was a £17.96 administration fee, and that the fund value at that time was now £9,793.09 (despite the value of the pension transferred-in, plus contributions being £9,463.13). NOW noted that Mr K had made several requests for the transfer to be reversed, but advised that its letter of 9 March 2016 was correct in stating that this was not possible, but Mr K had been given the option of arranging a transfer-out, to which no response was received. A copy of the 9 March 2016 letter was enclosed for Mr K's reference. NOW acknowledged that there had been a considerable delay in dealing with Mr K's complaint, and apologised for this. It also made an offer of £200 as compensation in full and final settlement of the matter.
17. On 7 November 2016, Mr K responded to NOW, stating he did not consider that NOW was complying with its own processes. Mr K rejected the £200 compensation, and requested escalation to Stage 2 of the IDR P. He clarified that his complaint was about NOW's failure to justify the unexplained charge of £363.82 applied at the time of transferring-in his pension, and its refusal to reverse the transfer-in, as requested. Mr K stated that NOW's only response to his concerns was a letter confirming his account was closed, and it had denied him access to the online account since that time. Mr K concluded that he wanted access to his online account, and a reversal of the transfer-in. Alternatively, Mr K said he would accept a transfer-out of the full sum, plus contributions and growth, free of charge, to a new provider of his choice.

18. On 28 November 2016, NOW wrote to Mr K with its Stage 2 IDRPs response. It stated that the discrepancy of c. £363 Mr K had identified in February 2016 was not due to a charge being applied to the transfer-in, rather, it was as a result of fluctuations in unit prices at the time of the transfer, which had affected the number of units Mr K's fund value was able to purchase. NOW noted that Mr K's fund value as of 1 November 2016 was £329.96 higher than the actual value of the fund, including all contributions – again, as a result of market conditions changing. It confirmed the Plan had only been subject to a £17.96 administration fee since the transfer, and it was unable to identify any correspondence sent to Mr K saying the account was closed.
19. NOW's Stage 2 IDRPs letter again confirmed that it was unable to reverse the transfer-in, citing the 9 March 2016 letter, and its Stage 1 IDRPs response. It reiterated that Mr K could transfer the fund away from NOW if he wished, and enclosed the paperwork to initiate this process. Further, NOW noted that Mr K was having problems logging into his online account. It stated that he should have full access, so should contact the member support team if he continued to experience issues. Finally, NOW increased its offer of compensation to £250, in recognition of the delays in responding to Mr K's complaint, and the inconvenience this will have caused. However, it stated that if it did not hear from Mr K within 30 days, the matter would be closed and the £250 offer may be retracted.
20. On 31 January 2017, Mr K wrote to NOW, disagreeing with its Stage 2 IDRPs decision. He did not accept the 30 day window given to respond regarding the compensation offer, and considered the language used to be coercive. Mr K did not accept the explanation regarding the lower fund value being due to unit price changes, and remained of the position that the £363.82 discrepancy was the result of an undisclosed charge, because the amount was only deducted '... on the very day of the transfer in.' Mr K considered that the wording in the 24 February 2016 letter was clear in stating that his account was closed, and noted he had not been supplied with updated account information as promised. He accepted that it was now too late to reverse the transfer, alleging this was due to NOW's delays, so stated that he would require a transfer-out to be arranged free of charge, and NOW would need to guarantee the minimum sum to be transferred.
21. On 19 May 2017, NOW emailed Mr K in response to his letters regarding the Stage 2 IDRPs decision. It apologised for the delay in replying, and confirmed the complaint had remained open and would do so until a resolution was reached. NOW provided a more in depth explanation of the fluctuations in market conditions which resulted in a reduction of Mr K's fund value, and gave a breakdown of unit prices throughout 2015 and 2016. It confirmed there had been no transfer-in charges applied, and to date, there had been a total of £33 in administration fees deducted from the account. NOW clarified that Mr K's account was not closed, but that no further contributions would be made to the Plan. However, those already made would remain invested, and if Mr K was experiencing problems accessing the online portal, he should contact member

support. NOW apologised that Mr K had needed to spend additional time pursuing his complaint, and increased its offer to £500, in full and final settlement.

22. On 13 June 2017, following communications with The Pensions Advisory Service (**TPAS**), Mr K complained to this Office. It appears he had not received NOW's email of 19 May 2017, as he noted in his application that NOW was refusing to respond to his letters. Mr K argued that NOW had failed to provide information relating to the value of the transfer-in, and when it finally did, an undisclosed charge of c. £363 had been applied to his fund, with no justification. He stated that, on requesting a reversal of the transfer, NOW had ignored or 'deliberately misunderstood' his instructions in order to delay matters until it was no longer possible to comply. Mr K wanted all 'improperly-applied fees' reversed and required NOW to provide a guaranteed minimum transfer-out value, so that it could not 'conceal fees and charges' at the time of the transfer-out.
23. On 14 June 2017, NOW emailed Mr K enclosing its message of 19 May 2017. A copy of this was also sent by post to ensure receipt. Mr K responded to NOW on 25 June 2017, stating that he still did not accept its explanations regarding the decrease in his fund value. Mr K said he was willing to accept the £500 offer, but only on the basis that NOW provide him with a guaranteed transfer-out value.

Adjudicator's Opinion

24. Mr K's complaint was considered by one of our Adjudicators who concluded that no further action was required by NOW. The Adjudicator's findings are summarised briefly below.
 - The reduction of Mr K's fund value was not due to a transfer-in fee, but due to fluctuations in the market, leading to a change in unit prices. Unit prices fluctuate on a daily basis, and cannot be predicted.
 - It is not possible for NOW (or any other provider) to guarantee a unit linked transfer value. To do so would be asking it to predict market prices prior to the actual day of transfer. Mr K's request is therefore not something that this office would be able to direct NOW to comply with.
 - There were significant delays in NOW dealing with Mr K's complaint, and at one point it incorrectly closed its file, having offered £250, in recognition of the delays, and no further action was taken until May 2017. NOW subsequently increased its offer to £500, which the Adjudicator believed to be sufficient.

25. Mr K did not accept the Adjudicator's Opinion and the complaint was passed to me to consider. Mr K provided his further comments which do not change the outcome. I agree with the Adjudicator's Opinion and I will therefore only respond to the key points made by Mr K in his letter of 23 October 2017, for completeness.

Ombudsman's decision

26. Mr K has provided no new evidence to support his case. NOW has explained that the discrepancy in Mr K's fund value was the result of changes to unit prices at the time, and this is a reasonable explanation. I note that in all of its correspondence relating to the transfer, NOW stated that the value of the account would fluctuate in line with current market conditions, which is correct concerning unit-linked investments. There has been no transfer-in fee applied by NOW, and no concealment of any charges deducted relating to the Plan.
27. I am unable to consider Mr K's request that NOW be directed to guarantee a minimum transfer-out value, as this is simply not possible with this type of investment. The price of units will vary and increase or decrease on a daily basis, so any transfer value, whilst correct at the time of issue, is likely to differ on the actual date of transfer. This could result in the actual amount transferred being higher than the transfer quote, but it could also mean the amount transferred is lower. There is no way to predict changes in the market conditions, therefore Mr K's request would be impossible to grant.
28. Mr K has consistently argued that NOW has removed or prevented access to his online account. NOW wrote to Mr K on 10 February 2016, in response to his request for information. This letter provided step-by-step instructions to enable Mr K to access his account online, and NOW advised him on at least two occasions since that if he was having issues logging in, he should contact member support. I cannot agree, therefore, that NOW has prevented Mr K from accessing the online portal.
29. Mr K has argued that NOW deliberately delayed dealing with his complaint, and responding to his request to reverse the transfer-in. As a result, a reversal was no longer possible. Mr K first instructed NOW to reverse the transfer in his letter of 28 February 2016. NOW responded on 9 March 2016, advising that this was not possible, as the transfer had completed in October 2015 so all contributions had already been processed and invested. As a response was issued by NOW within 10 days of Mr K's request, it is clear that there was no delay by NOW in dealing with this request.
30. I have reviewed this letter, and it does appear that there has been a typographical error in one of the characters in Mr K's postcode, so it is entirely possible Mr K did not receive NOW's response – although a copy was enclosed with the Stage 1 IDRP response. However, the key point is that at the time of Mr K's initial request to reverse the transfer-in on 28 February 2016, it was already too late to do so. The timeliness of

NOW's response therefore had no effect on Mr K's ability to reverse the transfer-in, as the deadline had already passed when NOW received his instructions.

31. I agree that the time taken to respond to Mr K's complaint was excessive, and would no doubt have caused significant distress to Mr K, which should be recognised. NOW has offered £500 for the distress and inconvenience caused, and this award is sufficient in recognition of its failure to deal with Mr K's complaint in a timely manner.
32. Therefore, I do not uphold Mr K's complaint.

Anthony Arter

Pensions Ombudsman
12 December 2017