

Ombudsman's Determination

Applicants	Mrs O and Mrs E
Scheme	Green Light Product Pension Scheme (the Scheme)
Respondent	Director of Green Light Packaging Limited (the Trustee)

Outcome

1. This complaint against Green Light Packaging Limited is upheld. To put matters right the Trustee will cease to block the transfer of the Applicants' benefits from the Scheme, and the Trustee will pay £1,000 to each of the Applicants in recognition of the serious distress and inconvenience it has caused them
2. My reasons for reaching this decision are explained in more detail below.

Complaint summary

3. The Trustee will not agree to the Applicants' requests to transfer their benefits out of Scheme.

Background information, including submissions from the parties

4. The Scheme is a small self administered scheme, established for Green Light Packaging Limited (**the Employer**). There are four member trustees, consisting of the remaining Director of the Employer (Mr O who will be referred to as **the Trustee**), a former Director of the Employer (**Mr E**) and their respective wives (Mrs O and Mrs E). Both couples have now separated and the Trustee is the only member trustee now connected to the Employer.
5. In March 2017, the member trustees met with the professional trustee, Rowanmoor, to discuss the transfers out for Mrs O and Mrs E. It was discussed that a valuation of the Scheme was necessary. A valuation had been conducted in 2016 and Mrs O, Mrs E and Mr E were in agreement that this could be used for the purposes of the transfers. However, the Trustee did not agree.
6. On 3 April 2017, Mrs O and Mrs E submitted their requests to transfer out of the Scheme.

PO-16045 & PO-17958

7. The Scheme rules state that any requests must be agreed upon unanimously by the member trustees.
8. The Trustee has stated that a Pension Sharing Order (**PSO**) must be agreed upon between the Trustee and Mrs O before any transfers out of the Scheme can take place. As a result, the Trustee has withheld agreement to any of the transfer out requests.

Adjudicator's Opinion

9. Mrs O and Mrs E's complaint was considered by one of our Adjudicators who upheld the complaint. The Adjudicator's findings are summarised below:-
 - Section 99 of the Pensions Scheme Act 1993 (quoted in the Appendix) states that a pension scheme must release benefits within six months of a request to do so.
 - Failure to transfer within this time frame amounts to maladministration by the Trustee.
 - The PSO is a separate issue and has no relevance to the transfer requests or valuation of the Scheme assets.
 - The Trustee has caused unnecessary delays and is in breach of Section 99.
10. The Trustee did not respond within the given timescales and the complaint was passed to me to consider.

Ombudsman's decision

11. The Trustee has not provided a valid reason as to why it has not authorised the transfer requests within the six month deadline, as set out in the Pensions Scheme Act 1993. This amounts to maladministration.
12. There is no reason why the PSO would interfere with the valuation of the Scheme assets, nor should it block the transfer requests of Mrs O and Mrs E.
13. I find that, by incurring such a severe delay in the transfer of benefits, the Trustee has caused significant distress and inconvenience to Mrs O and Mrs E.
14. The failure of the Trustee to comply with the statutory requirements will be reported to The Pensions Regulator.
15. I uphold the complaint.

Directions

16. Within 21 days of the date of this Determination, the Trustee will authorise and initiate proceedings for the transfer of benefits for Mrs O and Mrs E.
17. Within 21 days of the date of this Determination the Trustee will pay £1,000 each to Mrs E and to Mrs O in recognition of the serious distress and inconvenience it has caused them.

Anthony Arter

Pensions Ombudsman
27 September 2018

Appendix

Pension Schemes Act 1993, Chapter IV:

99. Trustees' duties after exercise of option

(1) Where-

- (a) a member has exercised the option conferred by section 95; and
- (b) the trustees or managers of the scheme have done what is needed to carry out what the member requires, the trustees or managers shall be discharged from any obligation to provide benefits to which the cash equivalent related except, in such cases as are mentioned in section 96(2), to the extent that an obligation to provide such guaranteed minimum pensions continues to subsist.

(2) Subject to the following provisions of this section, if the trustees or managers of a scheme receive an application under section 95 they must do what is needed to carry out what the member requires-

- (a) in the case of an application that relates to benefits other than money purchase benefits, within 6 months beginning with the guarantee date shown in the relevant statement of entitlement, and
- (b) in the case of an application that relates to money purchase benefits, within 6 months beginning with the date of the application.