

Ombudsman's Determination

Applicant	Mr N
Scheme	Standard Life Staff Pension Scheme (the Scheme)
Respondent	The Trustees of the Standard Life Staff Pension Scheme (the Trustees)

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 concerns the erroneous calculation of the Guaranteed Transfer Value (**GTV**). He contends that he should be entitled to the incorrectly quoted GTV of £882,526.89.

Background information, including submissions from the parties

4. In April 2017, Mr N received a GTV quotation "Transfer out statement (non guaranteed)", that said "The transfer value above is not guaranteed" and showed the following amount:-
 - Total non- guaranteed Transfer Value of benefits (excluding any DC benefits) £882,526.89.
5. On 11 July 2017, the Trustees sent Mr N a letter explaining the error that said:

"It has come to the attention of the Trustees that the guaranteed cash equivalent transfer quotation (GTV) that you recently received has been overstated. The mistake was due to human error which led to erroneous programming of the automated calculation routines performed by our administrator Mercer....Whilst we deeply regret having to issue a new GTV we are duty bound to calculate and pay benefits in accordance with the Rules and protect the interests and benefits of all members of the Scheme...The correct GTV pack will be issued within 7 working days from the date of this letter...the Trustees have decided that, in light of the error that has been made in this

instance, they will allow you to request a new GTV based on current financial conditions...at the date the new GTV is calculated...the Trustees will arrange for the cost of any advice to be met. The cost will be capped at £2000 plus VAT and we would require you or your advisor to send us a copy of the invoice...”

6. On 13 July 2017, the administrator sent Mr N a corrected GTV quotation that was guaranteed until 10 October 2017. It showed the new GTV amount of £866,994.60. Mr N decided to proceed with the recalculation of his original GTV using the correct data by settling on the new above figure.
7. In July 2017, Mr N raised a complaint against the Trustees’ decision. In his appeal, he said that he didn’t understand why it took the Trustees so long to have realised the error and that it has been three times that Mercer has provided inaccurate information. He was also unhappy with the Trustees’ offer as he felt it is not sufficient due to potential drop in the value with the new GTV quotation. Mr N also contended that as the GTV has the word “guaranteed” in it, that the incorrect GTV should be in fact guaranteed.
8. On 5 October 2017, the Trustees sent Mr N a response under the Scheme’s internal dispute resolution procedure (**IDRP**) that said:

“The Trustees were aware that current financial conditions might result in a higher or lower transfer value when compared to the corrected GTV. The Trustees therefore offered affected members an opportunity to request a completely new GTV...you decided to proceed with the correct GTV but calculated at the original date...In practice a transfer value is “guaranteed” in so far as it remains constant for a period of 3 months from its date of calculation. However, if the starting value itself is erroneous and is not a correct representation of benefits accrued, under the rules of the SLSPS and benefits could have remained in the SLSPS, then this must be corrected first and foremost. The Trustees do not believe they have acted improperly by correcting an error and giving options as to how affected members might proceed as a result. It was never the case that affected members still had to transfer out of the SLSPS and benefits could have remained in SLSPS.”
9. In the calls to this Office, dated 14 August and 6 September 2018, the Secretary to the Trustees (**AON**) explained that in 2008 Mr N’s final salary scheme changed to the career average scheme and this resulted in six months of career average valuation being double counted resulting in a higher incorrect GTV quotation. AON also confirmed that Mr N provided it with an invoice for financial advice he had received, and AON paid £2000 directly to his adviser.

Adjudicator's Opinion

10. 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:-

- The Trustees have agreed that they sent Mr N an incorrect GTV quotation in April 2017, so there is no dispute that an incorrect quotation had been provided. The Adjudicator noted that the Trustees had apologised and offered him up to £2000 to pay for any financial advice fees he incurred as a result of the error. The Trustees paid the £2,000 directly to his financial adviser.
- What the Adjudicator needed to establish was whether the incorrect information caused Mr N to incur a financial loss.
- Mr N said that he suffered a financial loss of the difference between the figures in the incorrect GTV quote and his correct entitlement. He also said that given it is actually called a GTV, it should be guaranteed. He also referred to downward market movements for initial commencement of the DB pension transfer dated 28 June 2017, to the actual execution date of 12 September 2017.
- Mr N is only entitled to receive his correct level of benefits as prescribed by the Scheme Rules. The Adjudicator did not agree that Mr N had suffered a financial loss because he was never entitled to the overstated GTV quotation, and had not received more than his correct entitlement. The Trustees have no discretionary powers to make awards other than those defined by the Scheme Rules.
- In the Adjudicator's view, he has suffered a loss of expectation, in that he understood that he was entitled to receive a higher GTV sum than the amount to which he was actually entitled; rather than a financial loss, although Mr N has suffered some non-financial injustice. The Pensions Ombudsman's approach in respect of non-financial injustice is that no award will be made unless the injustice is at least significant. Where there has been significant distress and inconvenience, the starting point for compensatory awards is £500. The Trustees have offered Mr N up to £2000, in respect of the financial advice provided to him, in recognition of the non-financial injustice he has suffered, the Adjudicator believed that the award is more than an Ombudsman would have awarded in such circumstances. The Ombudsman does not, as a matter of course make awards for costs charged by professional advisers to the complainant. Consequently, were this complaint to be considered by an Ombudsman, it is highly unlikely that there would be a direction for the reimbursement of Mr N's financial adviser's fees, therefore the Adjudicator did not uphold Mr N's complaint.

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11. Mr N did not accept the Adjudicator's Opinion and the complaint was passed to me to consider. Mr N 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 N for completeness.
12. Mr N referred to other similar cases resolved by this Office with an element of compensation and added that:

“Indeed, staff who actually work for me, have had success in their complaints, and whilst some of the cases vary in degree, your assessment indicates an inconsistency in approach or outcome, which I do not accept. I am not willing to share the names or the case numbers of those who have had some success, I recommend that you review your internal records for cases raised against SLSPS in recent times.”

Ombudsman's decision

13. My starting point, when reviewing cases where an incorrect quotation has been provided, is that the complainant is entitled to the correct level of benefits under the rules unless he or she can prove that they have suffered direct financial loss as a result of relying on the incorrect quotation provided. The Trustees have explained that in this case it was due to a human error which led to erroneous programming of the automated calculation routines performed by their administrator Mercer.
14. I find that Mr N proceeded with the transfer based on the correct GTV quotation to which he was entitled. He did not have to transfer; he could have remained in the Scheme. I do not find that he has incurred a financial loss.
15. There is no dispute that the issuance of incorrect GTV figures would have caused Mr N significant distress and inconvenience. However, as explained by the Adjudicator, I rarely direct trustees to reimburse professional fees and would not have done so in this case. The Trustees' payment is more than I would have awarded in respect of distress and inconvenience. Mr N should contact the Trustees if he wishes to accept their offer.
16. I do not uphold Mr N's complaint.

Anthony Arter

Pensions Ombudsman
26 September 2018