

## Ombudsman's Determination

Applicant	The Estate of Mr N ( <b>the Estate</b> )
Scheme	INEOS Chlor Pension Fund - INEOS Section ( <b>the Fund</b> )
Respondents	The Trustee of the INEOS Chlor Pension Fund ( <b>the Trustee</b> ) Mercer

## Outcome

1. I do not uphold these complaints and no further action is required by the trustee and Mercer.

## Complaint summary

2. Mrs N has complained on behalf of the estate that the trustee and Mercer, the fund administrators, failed to complete the transfer of her late husband's benefits to his self-invested pension plan (**SIPP**) with wealth at work. She wants to be offered the full cash equivalent transfer value (**CETV**) of his benefits in the fund rather than a spouse's pension, which is of a lower value.
3. The trustee responded to the complaints on behalf of Mercer.

## Background information, including submissions from the parties

4. Mrs N's late husband, Mr N, was a deferred member of the fund. He joined the fund in 1975 and left in 2018.
5. In February 2018, Mr N informed Mercer that he had a serious ill health condition and a limited life expectancy. He requested his retirement options and also an illustration of a CETV.
6. On 28 February 2018, Mercer provided the information Mr N had requested. The CETV illustration showed a figure of £957,883.
7. In July 2018, Mr N engaged an independent financial adviser (**the IFA**). He informed the IFA that he had terminal cancer, and his life expectancy was approximately six months.

8. On 26 August 2018, Mr N wrote to Mercer. He enclosed a letter of authority (**LOA**) in respect of his IFA.
9. On 4 September 2018, Mercer wrote to the IFA and acknowledged the LOA. On 6 September 2018, the IFA requested an illustration of CETV.
10. On 19 September 2018, Mercer sent the IFA an illustration of a CETV. The illustration dated 20 September 2018 showed a figure of £1,052,345, which was guaranteed for three months. Mercer enclosed a transfer application form (**the form**) and a link to its website to download all the other forms and instructions to return. Namely: the discharge form, “personal pension scheme transfer declaration form” (the **declaration form**) and evidence of the SIPP’s HMRC registration. It advised it would not be able to proceed the transfer without all the above information.
11. On 12 October 2018, the IFA requested further information, including the total contributions Mr N had made to the fund.
12. On 22 October 2018, Mercer provided the requested information to the IFA.
13. On 18 December 2018, the IFA requested a transfer of Mr N’s benefits to his SIPP with wealth at work. The IFA enclosed a completed form, which Mr N had signed on 17 December 2018. The IFA did not provide other information provided in the link.
14. On 19 December 2018, Mercer confirmed to its cashflow team the amount of funds needed to be disinvested.
15. On 20 December 2018, Mercer wrote to Mr N and acknowledged his application to transfer. Mercer asked Mr N to complete and return a “member information form”. It informed him that on receipt of the form, the trustee would consider his request to transfer his benefits.
16. On the same day, Mercer wrote to the IFA and acknowledged receipt of the form. It advised the IFA that the appropriate discharge form could be obtained from Mercer’s website.
17. On 31 December 2018, the IFA wrote to Mercer and enclosed Mr N’s signed discharge form.
18. On 7 January 2019, Mr N posted a completed member information form to Mercer. Mr N advised in the form that he was a “terminally ill cancer patient with a short prognosis.” So, he said he was not in a position to copy or send high volumes of technical data to Mercer.
19. On 11 January 2019, Mercer received the member information form.
20. On 23 January 2019, Mercer reviewed the member information form and sent an email to wealth at work. The IFA was asked to complete and return the declaration form which Mercer said it had attached in the email.
21. The IFA completed and returned this document on the same day.

22. On the same day, Mercer requested confirmation from HM revenue & customs (**HMRC**) that the SIPP was a registered pension scheme.
23. Mr N died on 31 January 2019, before the transfer of his benefits could be completed.
24. On 4 February 2019, the IFA contacted Mercer for an update and was told that it now had all the required paperwork to proceed with the transfer. The expected timescale was four to six weeks and expected payment date was 7 March 2019.
25. On 5 March 2019, Mercer told the IFA that due to Mr N's death it had cancelled the transfer effective from 6 February 2019, which was the date it was notified of the death. This was the first time the IFA found out about Mr N's death.
26. On the same day, Mercer wrote to Mrs N to confirm the transfer had been cancelled.
27. In or around June 2019, Mrs N complained to the trustee regarding the transfer process. She said in summary:-
  - She wanted to know how long transfers usually took to complete.
  - She also wanted confirmation of the date Mr N's transfer request was considered to have been received by the trustee under the relevant legislation.
  - The trustee should explain why the funds could not be released.
  - It should also explain the reason for the delay in the trustee releasing the funds after it received the declaration form on 24 January 2019.
28. In June 2019, the trustee wrote to Mrs N. It said in summary:-
  - Although the trustee received all the relevant paperwork, the transfer could not have been completed before Mr N's death. The trustee received the declaration form on 24 January 2019. Mercer then requested confirmation from HMRC that the receiving scheme was a registered pension scheme. This was an important part of its due diligence and necessary to ensure that it protected members from pension scams.
  - The fund fully complied with the statutory deadlines relating to the payment of CETVs. Under pension legislation, there is a "six month window" for the trustee to pay a CETV. In this case, the six month window expired on 6 March 2019.
  - At the time of Mr N's death, the trustee was still awaiting confirmation from HMRC and for the disinvestment of the funds.
  - HMRC's pension tax rules specify the conditions that need to be met for a payment of a benefit to be considered an authorised payment. Any payment that does not meet these conditions is an unauthorised payment which could incur a tax charge of up to 55% of the amount paid. The pension scheme can also be liable for a scheme sanction charge.

- It is widely accepted within the pension industry that an application for a CETV does not become legally binding on the scheme until the payment of the CETV has been made. This is because a member could change their mind and decide not to transfer at any point before this date.
- The trustee sought legal advice regarding this case. It considered the timeline, the legal requirements to provide a CETV, and pension tax legislation. The trustee would risk “exposing [Mrs N], and the fund to significant tax charges” if it pays the CETV.
- For this reason, it decided to seek clarification from HMRC. HMRC was not willing to confirm that paying Mr N’s CETV would not trigger tax charges.
- In cases where a transfer has not been completed, the default position under the fund rules is for a dependant’s pension to be paid to the surviving spouse.
- As a result of HMRC's response, the trustee has been liaising with its legal and actuarial advisers to determine what options are available in Mrs N’s case. This is to ensure that the payment of benefits, or transfer of benefits, do not trigger any penal tax charges.
- The trustee wanted to hear Mrs N’s views. It was willing to arrange a meeting, or have a telephone conversation, with Mrs N and the IFA if they wished to discuss her case.

29. In July 2019, Mrs N said in summary:-

- The fact that the transfer was not completed before Mr N’s death did not mean the transfer could not be finalised.
- Despite the absence of any legal justification why the transfer could not be completed, the trustee felt that it was legally entitled to refuse the transfer.

30. On 12 July 2019, the trustee responded to Mrs N and said in summary:-

- The trustee was sympathetic to Mrs n’s position and recognised the unusual circumstances of the case. As it had previously stated, HMRC had been unable to provide confirmation that a transfer payment would not trigger tax charges. Consequently, the trustee was unable to proceed with the transfer as it could be viewed as an unauthorised payment.

31. The trustee said that Mrs N could:

- Draw a spouse’s pension from the fund, which would be payable at a rate of £36,505 per annum for the first five years. It would be paid at a rate of £22,688 per annum thereafter; or
- Transfer the value of her spouse’s pension, which amounted to £736,000, to an alternative pension arrangement.

32. The trustee advised that under pension legislation, the receiving arrangement would need to provide Mrs N with a pension, otherwise the transfer payment could risk being deemed as an unauthorised payment.
33. On 23 July 2019, Mrs N wrote to the trustee. She said she wanted to know how the transfer value of £736,000 had been calculated. She also wanted to know why this was lower than the figure the trustee had quoted in Mr N's CETV illustration.
34. On 26 July 2019, the trustee explained that the transfer value was calculated as of 1 July 2019, using the fund's standard transfer value assumptions. It added that:

“The original [CETV] quoted to your husband represented the [CETV] of his entitlement under the fund prior to his death. The [CETV] of £736,000 quoted to you represents a [CETV] of your entitlement to a spouse's pension under the fund. The trustee is comfortable that it is able to pay the [CETV] of your spouse's pension within HMRC's authorised payments regime.”
35. In August 2019, there were further exchanges between Mrs N and the trustee regarding her request for the trustee to complete the transfer of Mr N's benefits. She queried whether there was any warning “of the strict time schedule enforced upon pension holders suffering from terminal illness...required by the trustee to authorise the agreement”.
36. The trustee confirmed that it did not impose a “separate time limit”. It said that it would usually aim to conclude the transfer process in less than six months. It also said that the responses it had provided to her would be treated as the trustee's response under stage one of the internal dispute resolution procedure (**IDRP**).
37. In December 2019, Mrs N appealed under stage two of the IDRP. She said that she still believed that it would have been possible to complete the transfer within four working days of Mercer receiving the final paperwork on 23 January 2019. Consequently, the transfer could have been completed before Mr N's death.
38. On 16 January 2020, the trustee sent Mrs N its response under stage two of the IDRP. It said in summary:-
  - It was not possible to complete the transfer within four working days from the date of receiving final paperwork to the date of Mr N's death.
  - On receipt of the paperwork on 23 January 2019, Mercer contacted HMRC for confirmation of the registered status of Mr N's SIPP. The process taken by Mercer is consistent with standard practice in the pension industry and can take some time to complete.
  - Mercer was determined to expedite the process and was reviewing its internal records to establish whether it had previously settled a transfer from any of its other schemes to wealth at work. Unfortunately, it was not able to complete the review before Mr N's death.

- Even if Mercer had continued with the transfer process, it could not have completed it in four working days. Due to the size of Mr N's CETV, Mercer would have needed to disinvest funds. The disinvestment process could not have been completed before Mr N's death.
- The trustee was satisfied that Mercer did not unduly delay processing Mr N's transfer request.

39. Although not party to the complaint the IFA had the opportunity to provide information pertaining to this complaint. It said:

“To put the issue of provision of correct documentation into context we reviewed a selection of pension transfer cases where Mercer was the administrator – specifically those undertaken at the same time as [mr n's]. I can confirm that for these cases Mercer provided details of all required documentation at our initial request. We also specifically reviewed transfer cases where Mercer was the administrator and INEOS was the scheme provider. I can confirm that for these cases, all relevant paperwork, including a transfer declaration form was enclosed with the initial transfer packs. It appears that in the case of [mr N], a different procedure was followed, whereby in addition to documentation provided, we were also required to follow a web link to obtain additional documentation – this was not clear in their communication. We are unaware of the reason for this and a change in policy is unlikely due to the timings of other cases we reviewed.”

### **Mrs n's position**

40. She does not believe that the trustee can refuse to complete the transfer in the circumstances.
41. It is unacceptable for the trustee to refuse to proceed with the transfer on the basis that Mercer had a limited window in which to complete the disinvestment.
42. She disagrees that the trustee can refuse completion of the transfer on the basis that by dying, Mr N had deprived the trustee of the “satisfaction that he would not have changed his mind” regarding completing the transfer.
43. She disagrees that the trustee can refuse finalising the transfer on the basis that it ‘may’ be considered an unauthorised payment by HMRC. Despite Mrs N's willingness to accept a potentially increased taxation.
44. Mr N could have been expected to understand that the monies had to be within the SIPP prior to his death. He should have been informed of this.
45. She referred to the case of Mrs R vs the trustees of the Simons group ltd pension & life assurance scheme [PO-17639], which was determined by the Pensions Ombudsman (**the PO**) in 2018. She believes it has a bearing on her complaint as it deals with similar issues. The ombudsman upheld the complaint on the basis that the

trustee failed to explain to the member if he did not access the benefits before his death, the benefits payable to the estate, and his wife, would be significantly lower.

### **The trustee's position**

46. The trustee referred to sections 95-100 of the pension schemes act 1993 (**the PSA 1993**) and the occupational pension schemes transfer (transfer value) regulations 1996 (**the regulations**).
47. It also referred to HMRC's registered pension tax manual (**the manual**) which provides useful guidance on how to determine the date on which an application to transfer is deemed to be valid.
48. The trustee reviewed the fund's trust deed and rules dated 24 July 2001 (as amended) (**the rules**). The relevant rule in this case is rule N.2. There is no express power under the rules to make a transfer payment following a member's death. The relevant sections of the regulations, the manual and the rules are set out in the appendix.
49. The trustee is not satisfied the above requirements were met on 23 January 2019.
50. The case of Mrs D vs Mattioli Woods Trustees Limited [PO-6790], which was determined by the previous PO in 2015, raises similar issues. The PO concluded that as long as the decision to transfer could be revoked by the member, no transfer of their beneficial interest could be said to have taken place.
51. The case of Mrs H vs the trustee of the Motorola UK benefits plan [PO-19486], which was determined by the previous PO in 2019, raises similar issues. The member accepted an enhanced transfer value and died during the cooling off period. The PO concluded that the transfer could not be completed following the member's death.
52. At the time of Mr N's death, Mercer had not yet processed the transfer payment. Consequently, the trustee had not "made irreversible arrangements to make the transfer."
53. Many other IFAs followed the instruction and downloaded the required forms for completion and returned to Mercer. Mr N's IFA did not download the required forms through the link for completion.
54. Although Mr N had completed the SIPP application form, it would still carry out diligence checks to ensure that all transfer requirements were met prior to finalising a transfer payment. It was a standard procedure as confirmed in the information provided in the link.
55. The standard timescales for Mercer to review received information would be 10 working days. Mercer took 12 days, from 11 January to 23 January 2019, to review the received final paperwork which included a weekend.
56. The trustee has been advised that the beneficial and equitable interest that Mr N had under the fund would not have "passed" at the point of his death because the transfer

had not been completed. The physical assets in relation to the transfer had remained with the fund. Mr n's application to transfer was capable of being revoked under section 100 of the PSA 1993.

57. Mr n's death triggered Mrs N's entitlement to a spouse's pension from the fund and his entitlement to a transfer of his benefits lapsed.
58. Mrs N does not have an entitlement in the fund to a benefit that would be classed as an unauthorised payment under HMRC tax rules. Making an unauthorised payment can adversely affect the tax registered status of the fund.
59. The fund could incur disinvestment charges, which could prove to be unnecessary, should a transfer application subsequently be withdrawn.
60. The trustee was not aware of the deterioration in Mr N's health condition at the point he submitted his completed member information form on 7 January 2019.
61. It sympathised with Mrs N's position; this was conveyed in all its correspondence with her. However, Mr N's transfer application cannot be processed in the circumstances. Mrs N is entitled to a spouse's pension from the fund, which she has not yet claimed.
62. In the response the trustees issued in November 2019, the trustee confirmed that Mrs N's spouse's pension had now been valued at £814,341. So, should Mrs N decide to apply to transfer, this is the amount that would be available to her.
63. It also confirmed that the service level agreement (**SLA**) is 20 working days from the date the trustee receives the transfer paperwork. It covers the following actions:-
  - Reviewing the documentation received from the member, the IFA, and the receiving scheme. Day one of SLA started on 18 December 2018 when Mercer received the transfer request from the IFA.
  - Due to missing information required, the case was put on hold until 11 January 2019, when member information form was scanned on the system. Day one of the SLA started on 11 January 2019 at 8:26am.
  - It takes 10 working days for Mercer to process scanned information which was completed on 23 January 2019.
  - Conducting transfer due diligence checks.
  - Requesting any outstanding documentation or additional documentation where due diligence indicates that further investigation is needed.
  - Liaising with Mercer's cashflow team to check that there are sufficient funds available and arranging disinvestments.
  - Raising payment requests, on receipt of confirmation from the cashflow team that the funds are available.
  - Authorising payment requests.



- Notifying the receiving scheme that the transfer has been completed.
- Additional time is needed for the disinvestment of funds. This is completed each month. The funds required to enable settlement of Mr N's transfer were received on 5 February 2019, after his death.

## Adjudicator's opinion

64. The complaints were considered by one of our Adjudicators who concluded that no further action was required by the trustee. The Adjudicator's findings and reasoning are summarised in paragraphs 65 to 82 below:-
65. The Adjudicator appreciated Mrs N's position. However, it was her view that the trustee could not proceed with the transfer in the circumstances.
66. The trustee has provided a summary of the steps a member and the trustee must take before the transfer can take effect, which is set out in the appendix.
67. In order to complete the transfer Mercer required: the form; the discharge form; evidence of the SIPP's HMRC registration; member information form; and the declaration form. The Adjudicator noted the illustration sent to the IFA dated 20 September 2018, provided the form to complete and the link to its website where the remainder of the required forms could be downloaded. In her view, the correspondence was sufficiently clear to understand that this was required.
68. Mercer asked the IFA to complete the member information form in its letter dated 20 December 2018 and the discharge form that was available through the enclosed link to its website. This link was previously provided to the IFA on 20 September 2018. However, it was not until 31 December 2018, that the IFA sent Mercer the discharge form. Mr N sent the member information form to Mercer on 7 January 2019, and this was received by Mercer on 11 January 2019. In the Adjudicator's view, Mercer could not be held responsible for any delays that occurred between when it sent the IFA the information it needed to facilitate the transfer, and when this information was sent to Mercer.
69. The Adjudicator noted that Mercer's standard timescale for reviewing received additional paperwork was 10 working days. It took 10 working days to review the final correspondence from Mr N. So, she was satisfied that there was no unreasonable delay in this matter. Although the trustee received all the required paperwork to pay the CETV, it was not able to do so as there were further steps that it was required to take to complete the transfer.
70. In 2015, the pensions scams industry group published its 'combating pensions scams - a code of good practice' (**the 2015 guide**). The 2015 guide provided information on the checks that providers should undertake before transferring a member's benefits to an alternative arrangement. It was important that, before completing the transfer, Mercer completed its due diligence checks to protect Mr N from the dangers of pensions scams.

71. Further, the PSA 1993 required the trustee to check with HMRC that the receiving scheme is “one that accrued rights can be transferred to, or to which a transfer payment can be made.” At the time of Mr N’s death, the trustee was awaiting confirmation from HMRC that the receiving SIPP was a registered pension scheme that could accept transfers.
72. Mercer’s standard process was to have evidence of a SIPP’s HMRC registration in order to carry out due diligence checks regarding this matter. Its website advised that it could not process the transfer payment without this. The Adjudicator noted that the IFA did not provide evidence of such registration. She understood that Mercer tried to expedite the transfer process by reviewing its internal records to determine whether it had previously transferred benefits to the wealth at work SIPP. Unfortunately, this was not completed before Mr N’s death.
73. The Adjudicator also understood that the applicable SLA was 20 working days from the date Mercer received the final paperwork. As set out in paragraph 63 above, there were several steps Mercer had to complete as part of the transfer process.
74. Once Mercer had completed its due diligence, it would have needed time to complete a disinvestment of the funds required to pay the CETV to the receiving SIPP. In the Adjudicator’s view, it would not have been possible for the trustee to complete its due diligence and the final steps in the transfer process within four working days of receiving the final paperwork.
75. The Adjudicator noted that the trustee carefully considered if it could proceed with payment of the CETV after Mr N’s death and that it sought advice from its legal advisers. If the trustee had authorised payment of the CETV, this could potentially have had an adverse effect on the tax registration of the fund. Also, Mrs N would have incurred a higher tax charge.
76. The Adjudicator considered rule N.2. It allowed a member to request a transfer of their benefits. However, it did not provide for the trustee to complete the transfer after the member’s death. This position was supported by the two cases determined by the previous POS and referenced by the trustee; (i) the case of Mrs D vs Mattioli Woods Trustees Limited [PO-6790] and (ii) the case of Mrs H vs the Trustee of the Motorola UK benefits plan [PO-19486].
77. The PO concluded in the first case that the member may still revoke their decision to proceed with the transfer after the final paperwork had been submitted and before the transfer payment is made. The PO concluded in the latter case that even though the member accepted the transfer, due to their death within the cooling off period, the transfer could not be finalised.
78. Although the rules did not explicitly prohibit the completion of a transfer after the member’s death, the trustee must follow the requirements under the PSA 1993. It must also follow the guidelines HMRC has provided in the manual. As these did not provide for the completion of the transfer following Mr N’s death, the Adjudicator

agreed that the trustee was not in a position to do so without the risk of incurring a tax charge from HMRC.

79. The Adjudicator's view was that the trustee and Mercer dealt with Mr N's requests, and his IFA's requests for information, in a timely manner and that they did not unreasonably delay the transfer of his benefits. She appreciated that Mrs N believed that the trustee should honour Mr N's request to transfer his benefits from the fund. However, the trustee's position was consistent with pension legislation.
80. Consequently, it could only pay Mrs N a spouse's pension as the transfer could not be completed before Mr N's death. Mrs N should contact the trustee directly if she wished to take the CETV of £814,341, the value of her spouse's benefits in the scheme.
81. Mrs N referred to the PO's previous determination having a bearing on her complaints. However, every case is different, and it is considered on its own merits.
82. The Adjudicator had great sympathy for Mrs N's situation. She appreciated Mr N was seriously ill and therefore no doubt unable to deal with the matter personally as quickly as he would have liked. However, this could not be viewed with the benefit of hindsight. Mercer had a process to follow to safeguard both Mr N and the Trustee and the fact it did this, did not amount to maladministration. Consequently, it was the Adjudicator's view that these complaints could not be upheld.
83. Mrs N did not accept the Adjudicator's opinion and the complaints were passed to me to consider. Mrs N did not provide further points in response to the opinion but told the Adjudicator:

"You have changed the course of the future for generations of family belonging to a man that worked hard for INEOS every day of his life and deserved a fair reward after such a cruel passing."
84. I note Mrs N's additional comment, but I agree with the Adjudicator's opinion.

### **Ombudsman's decision**

85. Mrs N disagrees with the trustee's decision not to finalise the transfer of Mr N's CETV.
86. Ultimately, the reason the transfer could not proceed was because it was not completed prior to Mr N's death. In order for the transfer to be finalised Mercer needed all the relevant paperwork to be processed before Mr N's death. However, at the time of Mr N's death, the trustee was still awaiting confirmation from HMRC and for disinvestment of the funds.
87. The trustee cannot be held responsible for any delays that occurred between when Mercer sent the IFA the information it needed to facilitate the transfer, and when this

information was sent to Mercer. Further, neither the rules nor the legislation provided the trustee discretion to finalise the transfer given the circumstances of the case.

88. I have considered the trustee's and Mercer's conduct and whether it was timely. I do not agree that the trustee and Mercer delayed Mr N's application for the transfer. Both the trustee and Mercer dealt with the IFA's requests in a timely manner and asked promptly for further information whenever it was needed. The IFA's queries were answered in a timely and comprehensive manner.
89. I completely empathise with the situation in which Mrs N finds herself. However, her entitlement can only be determined in accordance with the rules. Consequently, Mrs N is only entitled to receive a spouse's pension from the fund. Mrs N should contact the trustee directly regarding her pension entitlement.
90. I do not uphold these complaints.

**Anthony Arter CBE**

Deputy Pensions Ombudsman  
5 April 2023

## Appendix

**The trustee provided the summary of the following steps that must occur before the transfer can take effect:-**

- “The member must exercise an option to take a CETV.
- The member must make the CETV application within the prescribed period (i.e. Within three months of the statement of entitlement) (section 95 (1A) PSA 1993).
- The trustees or managers of the scheme must carry out the application within six months of receiving it (section 99(2) PSA 1993).
- The member must receive independent advice if the CETV is £30,000 or more (section 48(1) PSA 2015).
- The trustee needs to verify that the independent advice meets the legislative requirements (regulation 11, independent advice regulations).
- The conditions in regulation 12 (1) of the transfer value regulations 1996 must be met i.e. The personal pension scheme the CETV is being transferred to (a) must be one that accrued rights can be transferred to, or to which a transfer payment can be made; (b) can accept a transfer of liability in respect of those accrued rights; and (c) is registered under the finance act 2004.”

### **Section 100 of the PSA 1993 states:**

“(1) ...a member may withdraw an application under section 95 by giving the trustees or managers of the scheme notice in writing that he no longer wishes them to do what is needed to carry out what he previously required.

(2) Such a notice shall be of no effect if it is given to the trustees or managers at a time when, in order to comply with what the member previously required, they have already entered into an agreement with a third party to use the whole or part of the member’s cash equivalent in a way specified in subsection (2) or, as the case may be, subsection (3) of 95.”

### **Under the Manual, the effective date of the transfer completion is:**

“The effective date of the event is the date the assets/funds leave the scheme (not when they are received overseas).

The date a transfer can be said to leave a scheme is a legal question. It will be the point when a clear agreement is in place (including the completion of any transfer application and acceptance process) such that both schemes accept that the beneficial or equitable interest under the registered pension scheme has been transferred.

The fact that the conveyance of any legal title to any assets being transferred may stray does not alter the above. This follows an understanding of law that is not necessary to complete the formalities of transferring the legal title to an asset to convey the underlying beneficial interest. As a test of effectiveness, it should be considered that if the member died on a particular date would death benefits be payable from the transferring registered pension scheme.”

**Rule N2 of the Rules states:**

“If a Member ceases to be in Pensionable Service at least one year prior to Normal Retirement Date without becoming entitled immediately to receive any benefits, and the Member has accrued rights to benefits under the Scheme at that time, then the Member may in writing require the Trustee to apply the whole of the Member’s cash equivalent in:

a) making a transfer payment to another Retirement Benefit Scheme or a Personal Pension Scheme...

in accordance with the right conferred by section 93 to 101 of the Pension Schemes PSA 1993 (transfer Values).”