

Ombudsman's Determination

Applicant	Mrs B
Scheme	Mercer Master Trust (the Trust)
Respondents	Trustees of the Mercer Master Trust (the Trustee) Scottish Widows (the Administrator)

Outcome

1. I do not uphold Mrs B's complaint and no further action is required by the Trustee or the Administrator.

Complaint summary

2. Mrs B complained that the Administrator did not inform her that she could only take two income drawdown withdrawals from the Trust per tax year (**the Restriction**). Mrs B also complained that the Administrator incorrectly informed her that the Restriction was standard practice among pension providers. Mrs B contends that because of these issues, she experienced an unnecessary tax charge of over £90,000.

Background information, including submissions from the parties

3. The sequence of events is not in dispute, so I have only set out the salient points. I acknowledge there were other exchanges of information between all the parties.
4. Mrs B held benefits in the Trust, a defined benefit occupational pension scheme.
5. The Trust was previously administered by Zurich. Since July 2018, it has been administered by the Administrator.
6. In May 2019 and October 2019, the Administrator sent Mrs B a guide to flexible incomes in the Trust (**the Guide**). The Guide contained the following statement:

“You can take one-off payments (a maximum of two in each tax year), or set up regular monthly, quarterly, half yearly or yearly payments.”
7. On 12 June 2019 and 23 October 2019, Mrs B claimed income drawdown withdrawals from the Trust.

8. In November 2019, Mrs B requested to take another income drawdown payment from the Trust. The Administrator rejected this request, on the basis that Mrs B had already taken the maximum of two income drawdowns from the Trust in that tax year.
9. Subsequently, Mrs B requested to withdraw all of her remaining benefits in the Trust as a one-off, taxable payment. There was a delay in the Administrator actioning this request. The Administrator paid the benefits on 23 December 2019.
10. On 22 November 2019, Mrs B requested to close her account in the Trust.
11. On 30 November 2019, a payment confirmation letter was issued to Mrs B.
12. On 3 December 2019, Mrs B sent the Administrator her signed income drawdown claim form. The claim form included information about the Restriction. It contained the following statement:

“The minimum you can take as a one-off income payment at any time is £1,000 before income tax is deducted, and you can take this up to twice in a year.”
13. On 18 December 2019, Mrs B complained to the Administrator by telephone that she had not been notified of the change in the administrator of the Trust. She also complained about the delay in her pension being paid and the poor communication she received regarding it.
14. On 8 January 2020, Mrs B made another complaint to the Administrator by telephone. She complained that she had not previously been informed about the Restriction. She said that she needed to take money from her pension, and that because of the Restriction, she had to draw her whole pension at once and incur a significant tax charge. Mrs B said she had experienced stress as a result of this. She asked the Administrator to provide a breakdown of the claim amount and to consider providing her redress.
15. On 3 February 2020, in response to Mrs B’s telephone calls of 18 December 2019 and 8 January 2020, the Administrator partially upheld Mrs B’s complaint. It apologised for the delay in processing her third payment request and offered to pay her £190 in recognition of lost interest and the inconvenience she had experienced.
16. The Administrator rejected the aspect of Mrs B’s complaint about the Restriction. It said the completed claim form it had received from Mrs B on 3 December 2019 provided details of the Restriction. The Administrator said that because of this, it would not pay Mrs B redress to make up for the tax charge she had incurred.
17. On 1 July 2020, Mrs B submitted a complaint under the Trust’s Internal Dispute Resolution Procedure (**IDRP**). She said, in summary:-
 - She was not given notice beforehand of the change in the administrator of the Trust. She found it unacceptable that an apology had not been issued for this. She only found out about the Restriction in November 2019, at which point the

Administrator misinformed her that the Restriction would also be applied if she transferred her pension to another pension provider. She subsequently learned that not all pension providers had this rule, and that she could have transferred her pension and avoided paying a 50% tax charge.

- She could not avoid withdrawing the whole of her pension at once, as she had entered an agreement to purchase a property.
- She requested an income drawdown payment in mid-November 2019 and then received poor communication regarding the process for doing so. She received her payment on 23 December 2019 because of poor administration. This required her solicitor to enter into negotiations regarding her property purchase. This also required her to postpone her holiday arrangements. This negatively impacted her family.
- It was the Administrator's fault that she had no money left from her pension and had to look for work. Had the Administrator not told her that the Restriction was used by other pension providers, she could have transferred her pension funds to another provider and avoided a tax charge of £90,000.
- She had not received the documents the Administrator said it had sent her.
- She had not received an official reconciliation of her pension from the Administrator.
- Mrs B has also stated that the information about the Restriction was "buried in paperwork" and not communicated to her by the Administrator during telephone calls.
- On 18 March 2021, in response to Mrs B's IDRPs complaint, the Trustee said, in summary:-
 - The Administrator had located all of its telephone calls with Mrs B and had not found evidence that Mrs B was told she would not be able to take further income drawdown withdrawals from her pension if she moved to another provider.
 - In one telephone call recording, the Administrator had informed Mrs B that she could transfer to another pension provider. However, it had not commented on whether or not another pension provider may allow her to take further income drawdown withdrawals.
 - The Restriction to two income drawdowns from the Trust was stipulated in the terms and conditions of the Trust, and on the claim form Mrs B signed on 3 December 2019.
 - Mrs B's request for partial income drawdown was rejected because she had already taken two income drawdowns in the tax year preceding her request. So, her options were to either close her account, transfer to another provider, or purchase an annuity.

- The Trustee would continue to liaise with the Administrator to facilitate the provision of a reconciliation and statement of Mrs B's account.
- The Administrator has a policy of responding to enquiries within five working days. It complied with this in its response to Mrs B's query about her pension claim form submission.
- The Administrator paid Mrs B her pension benefits on 23 December 2019 rather than 17 December 2019, so there was a delay in relation to this payment. The Administrator paid Mrs B £134.15 in interest to make up for this, and an additional £50 in recognition of the non-financial impact of the delay. The Trustee considers this to be reasonable.
- The Administrator apologised by letter on 24 June 2020 for not having informed Mrs B of the change in the administrator of the Trust or giving the Trustee the opportunity to do so. The Trustee apologised for any concern this lack of communication had caused Mrs B.

Adjudicator's Opinion

18. Mrs B's complaint was considered by one of our Adjudicators who concluded that no further action was required by the Trustee or the Administrator. The Adjudicator's findings are summarised below.
19. Mrs B was informed in May 2019, through the Guide, when she took her first income drawdown on 12 June 2019, that income drawdowns from the Trust were limited to two per tax year. The claim form that Mrs B completed to request her income drawdown payments also informed her of this. So, in the Adjudicator's opinion, on the balance of probabilities, Mrs B would, or at least should, have been aware of the Restriction.
20. It was not, in the Adjudicator's opinion, reasonable to hold the Administrator or the Trustee responsible for consequences of Mrs B not having read or remembered information provided to her about her pension options. It was Mrs B's responsibility to ensure that she was well-informed about her options before she made any decisions about her pension.
21. No evidence has been presented to support the claim that the Administrator told Mrs B that if she transferred to another pension provider, the Restriction would continue to apply. Notwithstanding this, in the Adjudicator's opinion, it was not reasonable for Mrs B to have relied solely on statements from the Administrator about the pension options offered by other pension providers.
22. It was Mrs B's responsibility to investigate the options available to her comprehensively through independent research and if necessary, through consulting other pension providers or an independent financial adviser. In the Adjudicator's

opinion, it was reasonable for the Trustee and the Administrator to have expected Mrs B to take these steps before making any decisions about her pension.

23. The Trustee and the Administrator accepted the Adjudicator's Opinion, Mrs B did not, and the complaint was passed to me to consider. Mrs B provided her further comments which do not change the outcome. I agree with the Adjudicator's Opinion and note the additional points raised by Mrs B.

Mrs B's additional comments

24. Why is there a restriction to two drawdown payments a year when other providers offer a non-restrictive service?
25. The information about the Restriction was "buried in paperwork" and not communicated to her by the Administrator during telephone calls.

Ombudsman's decision

26. Mrs B complained that she was not adequately informed by the Administrator about her pension options, and specifically about the Restriction.
27. Mrs B claimed that she only discovered the Restriction in November 2019. I find that Mrs B was adequately informed about the Restriction, as the relevant information was available to her before she took any income drawdown payments from the Trust. Mrs B was in a position to have learned of the Restriction in May 2019 when she was sent the Guide which stated that Trust members could take a maximum of two one-off payments per tax year. This was before she requested her first income drawdown on 12 June 2019.
28. It is incumbent upon pension scheme members to read information provided to them about their pension and ensure they are fully informed about their options before making any decisions about their pension. I consider that neither the Administrator nor the Trustee can be held responsible for Mrs B not having realised or remembered that the Restriction was in place. On this basis, I find that it would be unreasonable to hold the Administrator or the Trustee responsible for consequences of Mrs B conducting her financial affairs without accounting for the Restriction.
29. Mrs B said that the Administrator told her that having the Restriction in place was standard amongst pension providers. Although this is Mrs B's recollection of events, I have seen no evidence to support the claim that the Administrator made that statement. Notwithstanding this, it was open to, and incumbent upon Mrs B to make enquiries of her own to determine what other options other pension providers could provide her with, for instance by conducting independent research, contacting other pension providers and seeking independent financial advice.
30. Mrs B stated that the information about the Restriction was "buried in paperwork" and not communicated to her by the Administrator during telephone calls. I understand

that Mrs B may have preferred or expected to have information about her pension communicated to her verbally. However, there was no requirement upon the Administrator to do so, or to duplicate the provision of information to Mrs B through repeating details contained in the official pension documents issued to her. There is no evidence that Mrs B had or communicated to the Administrator any health reason or other basis to substantiate a reasonable expectation that the Administrator would provide her with information about her pension other than through standard methods of written communication.

31. Mrs B also questioned why the Restriction was put in place by the Administrator. It is not unlawful for pension scheme administrators to restrict the number of income drawdown withdrawals pension scheme members can make per tax year. So, putting the Restriction in place did not amount to maladministration.
32. I do not uphold Mrs B's complaint.

Anthony Arter CBE

Deputy Pensions Ombudsman
14 August 2023