

Ombudsman's Determination

Applicant	Mrs E
Scheme	British American Tobacco UK Pension Fund (the Scheme)
Respondents	Capita Experience Pension Solutions (Capita) British American Tobacco UK Pension Fund Trustee Limited (the Trustee)

Outcome

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

Complaint summary

2. Mrs E complained that:
 - the cash equivalent transfer value (**CETV**) of her benefits in the Scheme, which were transferred in February 2021, was significantly less than the CETV quotation she was given in February 2020 (**the February CETV quotation**). (**Complaint 1**)
 - the handling of her enquiries about ill health retirement meant that she was unable to accept the February CETV quotation by the deadline. (**Complaint 2**)
 - the Trustees refused to extend the CETV guarantee period. (**Complaint 3**)

Background information, including submissions from the parties

3. In August 2019, the Trustee wrote to members of the Scheme advising that for a limited period British American Tobacco (**the Employer**) were offering enhanced CETVs for members who chose to transfer their benefits in the Scheme to an alternative arrangement. The enhancement was offered as a way to provide the Scheme with more certainty over future costs and risks whilst offering members more choice on how they could access their benefits.
4. On 26 February 2020, Capita, the Scheme's Administrator, provided Mrs E with the February CETV quotation on behalf of the Trustee. The February CETV quotation was offered on the enhanced basis, as set out in the letter sent in August 2019, and

showed a value of £204,201.00, with the enhancement totalling £12,012.00. The deadline for accepting the February CETV quotation was stated as 29 May 2020.

5. An information pack was included with the February CETV quotation. It stated that Mrs E should contact Origen, the Independent Financial Adviser (**IFA**) engaged by the Employer, as soon as possible, but no later than 24 April 2020. This would allow sufficient time for Mrs E to receive advice, make a decision and to submit her Acceptance Form if she wished to proceed with the transfer. It also stated that if she wished to accept the offer, Origen had to receive the Acceptance Form by 29 May 2020. The information pack also stated that there would be a two-week cooling off period after accepting the transfer offer.
6. On 16 April 2020, Mrs E made contact with Origen regarding the February CETV quotation.
7. On 27 April 2020, as advised by Origen, Mrs E had a telephone call with Capita to request AVC and ill health pension figures which were not included with the February CETV quotation.
8. On 1 May 2020, Capita initiated the ill-health application process to obtain the figures and sent an email to Mrs E regarding the steps required in order to refer the ill health application to the Trustee for approval. Capita also contacted the Trustee regarding this on the same day.
9. On 5 May 2020, Mrs E responded and requested the relevant forms to apply for ill health retirement (**the forms**). Mrs E said that she did not intend to take ill health retirement but was led to believe that she needed to complete the ill health application so that Origen could provide the necessary advice before she could accept the February CETV quotation.
10. On 5 May 2020, Mrs E emailed the Trustee and stated that she wished to accept the February CETV quotation but was experiencing lengthy administration delays caused by Capita. Mrs E had not yet returned a signed Acceptance Form.
11. On 7 May 2020, Capita sent the ill health retirement forms to Mrs E. She completed and returned the forms on the same day. However, she did not sign the forms with a 'wet' or live signature.
12. On 15 May 2020, Capita contacted Mrs E and requested that a 'wet' or live signature be provided on the ill health retirement forms.
13. On 16 May 2020, Mrs E returned the ill health retirement forms with the signature in the correct format.
14. On 19 May 2020, Capita telephoned Mrs E and told her that the ill health application was unlikely to be processed before the February CETV quotation deadline. It reiterated this in an email which was sent on the same day which stated the following:

“Unfortunately, the application process can take some time to complete and I expect even more so due to the current situation. I would therefore say that it is very unlikely that you will have a decision before the expiry date for the [CETV] offer.”

15. On 20 May 2020, Capita instructed an Occupational Health Management company, Collingwood Health, to contact Mrs E’s General Practitioner (**GP**) to obtain further medical information.
16. On 28 May 2020, Mrs E’s GP responded to the request for further information. Capita and the Trustee stated that there were delays in being provided this information by Collingwood Health.
17. On 29 May 2020, the February CETV quotation deadline passed.
18. Following a request from Origen the Trustee granted an extension to the deadline for the February CETV quotation as a further request for medical records from Mrs E was outstanding. A new deadline was set as 12 June 2020.
19. On 11 June 2020, Mrs E telephoned Capita with no answer or call back. Mrs E stated that she was awaiting information from Capita in order to proceed with accepting the February CETV quotation.
20. On 12 June 2020, the following took place:
 - Mrs E telephoned Capita and said that she wished to accept the February CETV quotation. She was informed that she would receive a call back the same day. Mrs E claimed that Capita did not call her back.
 - Mrs E contacted Origen regarding accepting the February CETV quotation, it stated that it could not provide advice until the ill health benefit queries were answered.
 - The extended deadline for the February CETV quotation passed and Mrs E had not returned a signed Acceptance Form.
21. On 18 June 2020, Capita contacted Mrs E to ask what information she was waiting for.
22. On 19 June 2020, Mrs E requested a further extension to the deadline for the February CETV quotation.
23. On 25 June 2020, Mrs E’s request was forwarded to the Trustee for consideration.
24. On 20 July 2020, Mrs E was informed that a further extension would not be permitted.
25. On 3 September 2020, consideration of Mrs E’s ill health application was completed. Her application was successful, and the relevant figures and information was provided.

26. On 28 September 2020, a further CETV quotation was requested by independent financial advisors appointed by Mrs E.
27. On 27 October 2020, Capita issued a second CETV quote for the amount of £192,720.22. The quote was calculated on the normal basis, without an enhancement.
28. On 22 December 2020, Mrs E contacted Capita via email and requested that it honour the February CETV quotation. Capita declined this request on the basis that the February CETV quotation was an enhanced offer, part of a one-time exercise.
29. On 15 January 2021, Origen sent the completed Acceptance Forms to Capita for the CETV quotation of 27 October 2020.
30. On 2 February 2021, the transfer value of £192,720.22 was paid.
31. On 22 February 2021, Mrs E complained to Capita about the administration delays she experienced during her attempt to accept the February CETV quotation and transfer. Mrs E also complained about the drop in the value between the February CETV quotation and the CETV that she accepted. She was also unhappy with the fact that the February CETV quotation guarantee period was not further extended.
32. On 12 March 2021, Mrs E sent Capita a chaser regarding her complaint.
33. On 17 March 2021, Capita responded and stated that the issue had been raised with the Trustee.
34. On 18 March 2021, Mrs E responded to Capita and stated that the matter should be considered by the Trustee and Capita as it was responsible for the administration. Mrs E wanted to know why the February CETV quotation deadline could not have been further extended and why the second CETV could not be enhanced.
35. On 23 March 2021, Capita responded to Mrs E's complaint and stated that the Trustee had the discretion to decide whether or not to grant extensions. It said that the Trustee decided not to grant a further extension mainly because the ill health retirement application was not received until 2 months after the February CETV quotation was sent to Mrs E. This significantly reduced the available time left to process the application before the CETV deadline passed. As a result, the Trustee did not consider it appropriate to grant another extension. Capita stated that there were also delays with Mrs E's GP providing further information. This was later clarified as having been a delay with Collingwood Health. Capita asked for clarification on the complaint against it so that it could be raised internally with the appropriate team.
36. On 26 March 2021, Mrs E responded to Capita. She claimed that Capita did not submit her initial request for ill health retirement in time for her to accept the February CETV quotation by the deadline. She felt that Origen led her to believe that she needed the ill health retirement application to have been processed before she could accept the February CETV quotation, otherwise it would not be able to provide to

necessary advice. Mrs E said that there was nothing in previous correspondence to suggest that she should have made any medical issues known before her ill health application was submitted. She also said that it was unclear that it was not necessary to complete the ill health application before the CETV could be accepted.

37. On 8 April 2021, the Trustee responded to Mrs E's complaint and said that it was not at fault for the fact that Mrs E missed various deadlines. It also explained that it was made clear what Mrs E needed to do in order to accept the February CETV quotation. Mrs E did not follow the required steps by the deadlines set, so the February CETV quotation value was no longer valid and could not be paid. It also said:
- Although Origen was paid to provide members of the Scheme with a service, it was independent and neither Capita nor the Trustee could have advised the member on whether or not to accept the February CETV quotation.
 - Mrs E missed the deadlines because she contacted Origen almost 2 months after receiving the February CETV quotation which left little time for the subsequent steps to be completed. The ill health application was also therefore not received until 2 months after the February CETV quotation due to Mrs E's delay in making the initial contact with Origen.
 - The Trustee believed that but for Mrs E's delay in approaching Origen and the delay caused by Collingwood Health, it may have been possible for the ill health retirement figures to have been provided and for advice to have been received from Origen with sufficient time to allow the February CETV quotation to be accepted. It did not accept that Mrs E had suffered any financial loss as a consequence of its actions.
38. On 2 June 2021, Capita responded to the complaint and stated that it had provided all necessary information within the appropriate timescales. It also made clear that it did not have any power to further extend the February CETV deadline. Only the Trustee had the discretion to extend the deadline, so any complaints about this should be made to the Trustee.
39. Following the complaint being referred to The Pensions Ombudsman (**TPO**), Capita and the Trustee made further submissions that have been summarised below.
40. Capita stated that all decisions over the future of the Scheme were at the discretion of the Trustee. The February CETV quotation issued on 26 February 2020 came with relevant explanations regarding timescales. Mrs E had not completed the steps necessary to accept the February CETV quotation and the fact that she did not do so was not caused by Capita.
41. The Trustee said its response to Mrs E of 8 April 2021 adequately conveyed its view on the matter.

Adjudicator's Opinion

42. Mrs E's complaint was considered by one of our Adjudicators who concluded that no further action was required by Capita or the Trustee. The Adjudicator's findings are summarised in paragraphs 43 to 46 below:

43. Complaint 1:

- The February CETV quotation was offered on an enhanced basis and amounted to £204,201.00 with the enhancement being £12,012.00. This enhancement was a limited time offer and the deadline to accept the offer was 29 May 2020. This offer was not accepted either within the original timeframe or by the extended deadline provided to Mrs E as she did not provide the required Acceptance Form by the deadline.
- The October CETV was less due to the enhancement expiring. It is within the Trustee's powers to offer enhancements and to provide a deadline by which members can benefit from those enhancements. The February CETV was clearly marked as enhanced so Mrs E should have been aware that if she did not accept the figure, it was likely to decrease.

44. Complaint 2:

- The February CETV quotation was issued on 26 February 2020. However, Mrs E did not contact Origen until the 16 April 2020, approximately 35 working days after the February CETV quotation was issued. If Mrs E had contacted Origen earlier, there may have been more time for the necessary steps to be carried out. It cannot be said that Capita or the Trustee are responsible for how quickly Mrs E chose to initiate contact with Origen.
- As advised by Origen, Mrs E initially raised the topic of ill health retirement on 27 April 2020 so that Origen could have all the necessary figures and information needed to provide accurate advice. Capita replied on 1 May 2020 setting out the steps required for an ill health retirement application. Mrs E requested the relevant forms on 5 May 2020, and these forms were subsequently provided to her on 7 May 2020. It was the Adjudicator's opinion that the forms were provided within a reasonable timeframe.
- There were some delays while Collingwood Health obtained the medical information necessary for the ill health application to be considered. However, the delay is irrelevant because it would not have been possible to complete the ill health application within the February CETV deadline even if there had been no delay given the time left before the deadline date.
- In the Adjudicator's view, it was not the responsibility of Capita or the Trustee to inform Mrs E that she did not need to complete an ill health application before the February CETV quotation could be accepted. Mrs E did not query this with Capita or the Trustee and for this information to be provided to Mrs R without a specific

query being made could be construed as providing advice, which neither party is authorised to do.

- Mrs E could have asked Origen directly whether the ill health application was necessary considering the impending deadline on the February CETV quotation deadline and also that she had no intention of taking this option. The Adjudicator stated that she had seen no evidence that Mrs E queried this with Origen.
- The February CETV quotation, and accompanying paperwork was sufficiently detailed. It clearly outlined the deadline and process for acceptance, it was Mrs E's assumption that she had to wait for the ill health application to be completed before accepting the February CETV quotation which resulted in her missing the deadline.

45. Complaint 3:

- The Trustee has the discretion to decide whether or not to allow an extension to the deadline for the February CETV quotation. The original deadline of 29 May 2020 was extended to 12 June 2020.
- The Trustee made it clear that its subsequent decision not to extend the CETV guarantee period further was based partly on the consideration that the ill health retirement application was not received until 2 months after the February CETV quotation was sent to Mrs E. In the Adjudicator's opinion this was a relevant consideration and the Trustee's exercise of its discretion in not further extending the CETV guarantee period was reasonable.

46. The Adjudicator was of the view that none of the complaints should be upheld.

47. Mrs E did not accept the Adjudicator's Opinion and the complaint was passed to me to consider. Mrs E and Capita provided further comments which do not change the outcome. I have considered the additional points raised by both Mrs E and Capita however, I agree with the Adjudicator's Opinion.

Mrs E's additional comments

48. She was unsure of how to accept the February CETV quotation and queried this numerous times with Capita and Origen;

49. At no point before the deadline did any party indicate that she could accept the February CETV quotation without the process of following the ill-health application;

50. She was not provided with an Acceptance Form to sign which is why she did not do so;

51. She did not receive the email of 19 May 2020 and had she received it she would have gone on to query what she could do to accept the February CETV quotation.

Capita's additional comments

52. The February CETV quotation was issued by Origen, on behalf of the Trustee, rather than by Capita. As the Trustee arranged the CETV exercise with Origen, Capita had no involvement in issuing paperwork;
53. The Acceptance Forms would have been given to members by Origen as part of the advice paperwork, Capita and the Trustee would not have been involved in this part of the process;
54. Capita had not told Mrs E that the ill health information was required in order to take the February CETV offer and there is no reference to it being a requirement on the paperwork.

Ombudsman's decision

55. Mrs E complained that the CETV transferred in February 2021 was significantly less than the February CETV quotation in 2020.
56. The information provided to Mrs E, both in August 2019 and February 2020, was clear that enhanced transfer values were only being offered for a limited period. It should therefore have been clear to Mrs E that if she did not accept the February CETV quotation within the set timeframe a subsequent later CETV would be lower.
57. Further, the information pack stated that an Acceptance Form needed to be completed. If the pack did not contain an Acceptance Form or Mrs E was unclear how to accept the February CETV quotation, as she now suggests, I would have expected her to have made this known to Origen. There is no evidence that she did so. As Mrs E did not complete the necessary actions within the set time frames, I find she is not entitled to the higher transfer amount. Mrs E said that Capita's handling of her enquiries regarding ill health retirement meant that she was unable to accept the February CETV quotation by the deadline.
58. As advised by Origen, Mrs E initially raised the ill health retirement request on 27 April 2020. Capita replied on 1 May 2020, setting out the steps required for an ill health retirement application. Mrs E requested the relevant forms on 5 May 2020, and the forms were subsequently provided to her on 7 May 2020. Mrs E signed the forms and Capita instructed Collingwood Health on 20 May 2020.
59. While it is clear that there were some delays while Collingwood Health obtained the medical information necessary for the ill health application to be considered this is not something for which Capita can be held responsible as the delays were outside of its control. Following receipt of the necessary medical evidence the ill health application was passed to the Trustee for consideration. I have seen no evidence that Capita caused any unnecessary delay or mishandled Mrs E's application.
60. Mrs E said that none of the parties indicated that she could accept the February CETV quotation without the process of following the ill-health application. In order to accept the offer of an enhanced CETV members were required to take financial advice. This was provided by Origen, who requested that Mrs E ascertain the

requirements for an ill health pension application and also the value of her AVCs, so that it could provide the necessary financial advice. It would not therefore have been possible for Mrs E to have accepted the February CETV quotation without first initiating the ill-health application as Origen would not provide its advice otherwise.

61. Capita and the Trustee are not authorised to give financial advice, or provide any input to the financial advice given by Origen to Mrs E. In its email of 19 May 2020, Capita informed Mrs E that her ill health application was unlikely to be completed before the February CETV quotation deadline. Had Mrs E started the process earlier then it is possible that Origen would have had the information it required to provide Mrs E with the required financial advice before the enhanced CETVs deadline. It is unfortunate that, for whatever reason, Mrs E waited until 16 April 2020, before obtaining financial advice from Origen.
62. While I have every sympathy with Mrs E's undoubted frustration, that her intention was to accept the February CETV quotation, I find that the outcome was not the result of maladministration by Capita or the Trustee. The steps Mrs E needed to take to accept the February CETV quotation were not completed, the two deadlines were missed, and the enhancement was lost.
63. I do not uphold Mrs E's complaints and no further action is required by Capita or the Trustee.

Anthony Arter CBE

Deputy Pensions Ombudsman

23 September 2024