

Ombudsman's Determination

Applicant	Mr H
Scheme	T&N Retirement Benefits Scheme (1989) (the Scheme)
Respondents	20-20 Trustees Services Ltd (the Trustee) Legal & General (L&G)

Outcome

1. I do not uphold H's complaint, and no further action is required by the Trustee or L&G.

Complaint summary

2. Mr H's complaint is that he was misadvised and provided with incorrect retirement quotations and his queries were not answered timely or correctly.

Background information, including submissions from the parties

3. In 1988, Mr H was notified of T&N's intention to merge its various pension schemes for employees in the UK into a new arrangement, the Scheme (a large final salary occupational pension scheme), with effect from 5 April 1989. T&N advised that the proposed benefit and contribution levels of the Scheme reflected the overall funding position of the existing schemes – a £117 million surplus of assets over liabilities.
4. On 1 October 2001, administration orders were made in England in respect of T&N and 132 other English companies in the Federal Mogul group.
5. In December 2002, Mr H left his employer to move to other work and became a deferred member in the Scheme.
6. On 10 July 2006, the Scheme entered a Pension Protection Fund (**PPF**) assessment period following the insolvency of the employer connected with the Scheme. From then, members benefits under the Scheme rules were reduced to the level of compensation that would be payable if the Scheme transferred to the PPF under section 138 of the Pensions Act 2004. One of the effects of section 138 is that benefits payable to a member who was under Normal Pension Age (**NPA**) at the time of the relevant insolvency event are reduced to 90% of the member's entitlement

under the Scheme Rules and an actuarial reduction applies on PPF factors if the pension is taken before NPA. Other restrictions on benefits also apply under the relevant provisions of the Pensions Act 2004.

7. The Trustee is an independent trustee and member of the PPF’s Trustee and Support Services Panel.
8. In October 2011, Alexander Forbes Trustee Services Ltd¹ entered into a bulk buy-in agreement with Legal & General (**L&G**)² as the Scheme’s funding level exceeded the level for transfer of the Scheme to the PPF under the Pensions Act 2004. The bulk buy-in agreement provided for a switch to buy-out, i.e. replacement of the bulk buy-in policy in the name of the Trustees with individual annuity policies issued by L&G to each of the members and beneficiaries, on completion of the PPF assessment period, enabling the Scheme to wind-up. L&G inherited the Scheme’s membership data from AON, the previous administrator of the Scheme.
9. In October 2019, L&G wrote to Mr H. L&G said:

“Thank you for your recent enquiry regarding the above pension scheme.

Your pension is part of a bulk purchase annuity scheme where retiring on ill health is for critical illness – condition that is terminal and life expectancy is less than twelve months. For individual annuity ill health is for chronic illness – life time [sic] condition.

To be able to take ill health we need to see a letter from your Hospital Consultant or your GP Surgery Doctor describing your condition and life expectancy.”
10. On 1 November 2019, Dr Spickett (Consultant Neurologist) wrote to Mr H supporting his ill health retirement on grounds of chronic fatigue syndrome (**CFS**).
11. On 12 November 2019, L&G provided Mr H with an early retirement illustration as of 11 July 2021. Namely:

Retirement Date	July 2021
	(Age 55)
Option 1:	
Pension p.a.	£7,152.72
Spouse’s pension p.a.	£3,576.48
Option 2:	

¹ In April 2014, 20-20 Trustees Limited acquired Alexander Forbes Trustee Services Limited. 20-20 Trustees then renamed Alexander Forbes Trustee Services Limited to 20-20 Trustee Services Limited.

² See Appendix 2.

Tax-free cash lump sum	£37,112.92
Reduced pension p.a	£5,567.04
Spouse's pension p.a.	£3,576.48

12. On 27 November 2019, following further contact from Mr H, Dr Spickett wrote a supplementary letter to Mr H confirming that he (Mr H) was currently unfit for any work and would remain so until his normal retirement age.
13. In February 2020, Mr H was dismissed by his then employer on grounds of capability due to ill health. He was age 53.
14. In early March 2020, L&G received from Mr H a copy of the dismissal letter and both of Dr Spickett's November 2019 letters.
15. On 16 March 2020, L&G wrote three letters to Mr H. The first letter informed Mr H that his application for ill health early retirement had been approved. L&G said the evidence showed that he had a chronic condition and not a terminal illness with a life expectancy of less than 12 months. The second letter enclosed an ill health early retirement illustration with an effective date of 11 March 2020 (see table paragraph 27 below for details). The third letter provided a transfer value quotation.
16. In April 2020, Mr H queried with L&G his reduced pension entitlement (that it did not represent his "full entitlement"). In reply, L&G emailed Mr H:

"The scheme secured with [L&G] is a defined benefit one from a final salary scheme.

Defined benefit schemes provide serious ill health for terminally ill members (less than 12 years to live) or ill health which is where a member is not able to work and can retire before 55. There is no[t] an enhanced annuity. You can purchase one with your lump sum.

You may well be entitled to additional pension benefits from the Financial Assistance Scheme. They would provide a top-up to benefits secured at [L&G] that go some way to providing covering [sic] the shortfall from the employer's scheme. The two sets of benefits together should be able to provide up to 90% of your employer's pension benefits.

The Financial Assistance Scheme can be contacted on..."

17. After contacting the Financial Assistance Scheme (**the FAS**), AON and again the FAS, Mr H was directed back to L&G and duly complained about being misadvised to contact the FAS. In a letter dated 30 April 2020, L&G apologised, offered Mr H £100 for any inconvenience caused and confirmed that his pension entitlement had been correctly calculated. L&G explained that the agreement with the Trustee stipulated that his pension should be revalued from 10 July 2006 in line with PPF legislation to

his chosen retirement date. Once revalued an early retirement factor was applied to account for its early payment before his NPA of 60.

18. In May 2020, Mr H wrote to L&G that he wished to raise a few issues via the Scheme's internal dispute resolution procedure (**IDRP**) and required the following:
- an explanation of how L&G could put forward the "proposed pension offer" given that the Scheme was still in the PPF assessment period; and
 - a copy of the Scheme's rules pertaining to ill health retirement at the time "I was a member".
19. The next month L&G drafted a reply to Mr H which it sent to the Trustee for approval. The Trustee approved the draft on 13 July 2020 and L&G issued the letter on 21 July 2020. In the letter L&G said:

"Thank you for your letter of 11 May 2020. We have passed a copy of your letter, and our response, to the Scheme Trustees. I expect you will receive a copy of their Internal Disputes Resolution Procedure (IDRP) shortly.

I have provided responses to your queries below:

The T&N Scheme entered a Pension Protection Fund (PPF) assessment period on 10 July 2006. Accordingly, the Trustees of the Scheme remain responsible for providing members with their benefit entitlements throughout the PPF assessment period. Schemes in PPF assessment continue to provide retirement quotations (and complete pension set ups) so that members are not disadvantaged and quotations produced during assessment are calculated in line with PPF Regulation.

As a deferred member of the Scheme, below your normal retirement age, your benefits are to be provided based on 90 per cent of what your pension was worth at the time your employer became insolvent. Annual revaluation is applied to this benefit in line with inflation, up to a limit set by government. In payment, pensions are also increased in line with inflation, subject to a maximum of 2.5%, in relation to pensionable service accrued on or after 6 April 1997. Your entitlement will also be subject to reduction if taken earlier than the Scheme normal retirement age. The Trustee letter of 21 July 2006, ..., also confirms the following in relation to ill-health early retirement:

"There will be no special treatment for ill-health early retirement, except where the application had been made before 10 July 2006"

The benefits quoted to you by Legal & General have been calculated in line with Trustee instructions and match those provided under the PPF level of compensation.

Please note that while the Scheme Rules previously governed the Scheme (including regarding ill health), the Scheme Rules have since been superseded by the PPF assessment period and the Scheme is now administered in line with PPF regulations. This follows in 2006 the then administrators of the T&N companies

notifying the PPF of an insolvency event had occurred in relation to the T&N companies.”

20. On 16 November 2020, Mr H emailed L&G requesting that it revise the calculation of his pension to reflect the High Court’s June 2020 judgment in the case of *Hughes and Others v The Board of the Pension Protection Fund* [2020] EWHC 1598 (Admin) (**Hughes**) (see Appendix 1).
21. In January 2021, L&G provided the Trustee with an early retirement quotation for Mr H as of 7 January 2021 and at age 60, - respectively, £6,945.24 per annum and £8,811.12 per annum - based on his benefits capped at PPF compensation levels and revalued on the PPF basis.
22. The next month, the Trustee spoke with Mr H. The telephone note states:

“Having reviewed the figures provided by [L&G] I believe that they have offered [Mr H] approx. 90% of the benefits that he was due from his service from the Scheme if he retired at 55. If he retired earlier than that on ill health grounds the figure drops under 90% due to the actuarial reduction ([Mr H] is not critically ill).

...

I rang [Mr H] and explained that I had now received figures from [L&G] that after reviewing I agreed with their explanation. [Mr H] on a notional basis would have been entitled to an annual pension of £7,701.24 if he were to retire early at 7 January 2021, whilst L&G were quoting £6,945.24 at that date which equates to 90% of the £7,701.24 figure.

[Mr H] is not yet 55 and therefore the quote that he has received is for £6,690.72³ due to the additional reduction for potentially receiving benefits early on ill health grounds pre 55. This would equate to approx. 87%.

In addition as at 10 July 2006 [Mr H’s] notional pension was calculated to be £6,095.76 whereas L&G had priced his benefits at £5,522.23, which equates to 91%.

[Mr H] believed that he was entitled to 100% benefits as when he left the Scheme in 2002 it was “fully funded”. I explained to [Mr H] that whilst that may have been the case the key date is when the Scheme entered into financial difficulties and the ages of the membership at that point in time. I explained to [Mr H] that with him being classed as a deferred member in 2006 he was further down the priority order than those pensioners who had reached their NRD before 2006. [Mr H] then mentioned that he had been advised by his union representative that the Hampshire^[4] court case affected all members of the Scheme and meant that all members should receive a payout. I explained that this was not correct and that the Hampshire ruling only affected a handful of members to any significant degree. I mentioned that there were additional legal cases progressing that may be beneficial

³ The ill health retirement quotation provided in March 2020.

⁴ See Appendix 1.

to some other members of the Scheme (particularly those not receiving annual increases) but the impact of these was not yet known.

I asked [Mr H] if he wished for me to send him the Scheme IDR form (as he had previously shown desires to complain). [Mr H] declined this offer and asked if I would mind speaking with his union representative. I said that I was more than happy to do so and asked [Mr H] to pass my details on.”

23. In April 2021, following further exchanges between the parties, L&G sent Mr H retirement quotations at age 55 (in July 2021) and 60 (in July 2026).
24. A summary of the retirement illustrations issued by L&G to Mr H in March 2020 and April 2021 are shown in the following table:

Retirement Date	March 2020	July 2021	July 2026
	(Age 53)	(Age 55)	(Age 60)
Option 1:			
Pension p.a.	£6,690.72	£7,203.72	£9,027.76
Spouse’s pension p.a.	£3,345.48	£3,601.92	£4513.56
Option 2:			
Tax-free cash lump sum	£35,304.59	£37,623.13	£46,012.54
Reduced pension p.a.	£5,295.72	£5,644.92	£6,901.92
Spouse’s pension p.a.	£3,345.48	£3,601.92	£4513.56

25. On 24 May 2021, Mr H’s union representative (Ms E) emailed the Trustee. Ms E said Mr H had sought financial advice and had queries as the financial advisor had concerns over the offers that had been made. Namely:-
 - Why an actuarial reduction had been applied to the March 2020 illustration, when this was not stipulated by the PPF. A 90% reduction was understood but not the further actuarial reduction.
 - What annual index linked increases were applicable to Mr H’s pension and what percentage of his pension would not increase.
 - Confirmation that the sum of money paid to L&G by the Trustee for Scheme members was “to secure pension benefits 90% of the fund as set out in line with what the PPF would pay”.
26. On 18 June 2021, L&G replied to Ms E:
 - Under the L&G policy ill health early retirement was permitted prior to age 55 at a reduced rate.

- No increase would apply to the Pre-6 April 1997 element of the pension. The Post-5 April 1997 element of the pension would increase each January by the Consumers Prices Index subject to a maximum of 2.5%. The first increase was proportionate.
- L&G provided member benefits reflecting what had been insured by the Trustee.

27. The same day, Ms E emailed L&G:-

- It seemed from its answer to the first query that changes had been made to the pension terms and conditions under the buy in policy with L&G as under the Scheme rules and under the PPF no reduction applied to ill health retirement pensions. Could L&G confirm if it had informed/consulted with scheme members over this change and was it acceptable to the Trustee?
- Requesting it to expand on its answer to the third query and confirm the overall sum of money provided to L&G to secure pension benefits was 90% of the fund as set out under the PPF, or if different the actual percentage.

28. In July 2021, L&G replied:

“Schemes, including T&N, provide L&G with the information they need to insure the member benefits. However, L&G took on the administration of the scheme a number of years after the PPF Assessment Date commenced and after the member benefits were adjusted accordingly.

T&N is currently in a buy in with L&G and L&G administer in line with the benefits that the Trustees insured for the scheme.”

29. On 1 September 2021, Ms E emailed the Trustee that L&G’s response had not answered Mr H’s queries.

30. The following month, Mr H submitted his complaint to The Pensions Ombudsman (TPO).

31. To date, Mr H has not taken his pension benefits, and the Scheme remains in the PPF assessment period.

Mr H’s position

32. Mr H submits:-

- He believes he was misadvised, not provided with required information to make sound pension/financial decisions, pension quotations were incorrect, and his complaints and queries were not dealt with in a timely or correct way.
- He was enrolled in the T&N Retirement Benefits Scheme 1988, which merged in 1989 into the Scheme. At that time, he was provided with paperwork that confirmed those who joined the Scheme would enjoy “substantially increased

early retirement pensions, including ill health” due to a surplus in the current scheme.

- After he applied for ill health retirement, L&G wrongly directed him to the FAS and the ill health retirement quotation he received from L&G seemed incorrect as it appeared not to be in accord with the Scheme rules and the PPF’s guidelines.
- He complained about L&G’s advice and asked for the Scheme’s rules on ill health retirement. He was not satisfied with the response he received as it did not answer the key questions he had raised.
- He then invoked the IDR. Both he and his union representative had to consistently chase L&G and the Trustee to finally receive the decision, which again did not properly address or answer his complaint as he still felt the pension offer made to him was incorrect.
- During this time, he received a revised pension offer under ill health retirement, which was more than previously offered, and the opportunity to take his benefits at age 55. But the pension calculations were not clear, and he still felt his ill health retirement pension offer had been wrongly calculated.
- After taking financial advice, he requested further information in May 2021. He finally received a reply from L&G in July 2021, which did not answer the questions he had asked. His Union representative chased the Trustee in September 2021, but no response was provided.
- This situation has caused him a great deal of stress and anxiety, which has affected his health and wellbeing, and living without the income from his pension has caused severe financial hardship.
- The Scheme has remained in the PPF’s assessment period. L&G and the Trustee appear to have used this to justify not fully dealing with his complaint.

33. Commenting on the Trustee’s position (see paragraph 37 below), Mr H submits:-

- The Trustee has presented him as a difficult person who will not accept its pension offers or replies. The reality is that before now neither L&G nor the Trustee has provided such a comprehensive answer to any of his queries.
- He has a terminal illness and this whole process has caused him significant stress and affected his health.
- He is surprised that the Trustee has not previously clarified some of the issues until now. If the Trustee had provided such clear and comprehensive information in a timely manner, his complaint would not have arisen.
- When he first contacted L&G, he received wrong advice which the Trustee suggests he has been compensated for. In fact, he did not accept and has not cashed L&G’s cheque. He has received differing pension quotations without an explanation of why they differ, including the March 2020 ill health retirement

benefits offer. The Trustee's formal response is the first time he has been made aware of the reason for this.

- After two different pension quotations, initial wrong advice and many months trying to raise a complaint via the Scheme's IDRPs, followed by information requests to seek clarification via his MP and the PPF, his trust and confidence in both L&G and the Trustee is broken.
- The Trustee suggests that it and L&G have gone to some lengths to deal with his issues. In fact, they have ignored information requests on many occasions and taken considerable time to provide information, much of which was unclear and required further explanation.
- His MP sought information on how long the Scheme's PPF assessment period was expected to take and accordingly notified him. He contacted the PPF as a result of incorrect information provided by L&G at the outset.
- It may now be that having taken his complaint to TPO, the Trustee has had to clarify the position of the Scheme and the pension offers it has made, and if their advice is correct and TPO agrees, he will now have to select which option he wishes to take.

The Trustee's position

34. The Trustee submits:-

- Following the buy-in agreement, L&G took on administrative responsibility for paying members their benefits as and when they fall due.
- Due to the size of the Scheme⁵, it is not cost or time effective for L&G to share copies of individual documentation with the Trustee before they are issued to members or to typically involve the Trustee in the retirement process for individual members.
- As Mr H was a deferred member at the PPF assessment date, 10 July 2006, he is entitled to receive approximately 90% of the benefits due to him in accordance with PPF legislation.

On the incorrect referral to the FAS

- Understandably, L&G's mistake in referring Mr H to the FAS, upset Mr H. L&G accepted responsibility, apologised to Mr H and paid him £100 for any inconvenience caused.

⁵ As of 31 March 2006, the Scheme had a total membership of 34,713. As of 31 March 2022, it stood at 18,379.

On the March 2020 ill health early retirement quotation

- It did not receive a copy of the March 2020 quotation before it was issued to Mr H. Similarly, it did not see the medical evidence which L&G reviewed. Nonetheless, if it had seen the information, it would have reached the same conclusion that L&G did in respect of Mr H's life expectancy. Under the rules of the Scheme there are no provisions enhancing early retirement from deferred pensioner status due to ill health except for those with a life expectancy of less than 12 months.
- Mr H did not accept that the March 2020 quotation represented his "full pension" entitlement. This appears to revolve around the Scheme being fully funded when he left it in 2002, which led him to believe that he should receive a full pension.
- Mr H seems unwilling to accept that once the Scheme entered a PPF assessment period in July 2006 the Scheme rules were superseded by PPF legislation.
- The March 2020 quotation would have been for his benefits to start before he reached age 55. The Trustee considered that there was some debate as to whether this was permitted but accepted that, as the cost would be borne by L&G and would have a negligible effect on the Scheme and the other members and the quotation was provided to support Mr H, the Trustee was willing to accept L&G's interpretation. It should be noted that the quotation was to provide support to Mr H given his documented health. Furthermore, it was not compulsory for Mr H to have his benefits put into payment if he did not wish to do so.

On the option of retiring early at age 55 and the forecast of benefits at age 60

- A member may take their benefits from age 55 on the grounds of early retirement. This has been communicated to Mr H and his Union representative. If Mr H retires before his NPA an actuarial reduction will apply to his benefits.

On Hampshire, Hughes and Bauer cases⁶ and GMP equalisation

- A group of members of the Scheme successfully took legal action against the PPF over the limits applied to the annual pension that a very small handful of members (approximately 30) were subjected to via the PPF's compensation cap. In 2018, the Court of Justice of the European Union (**the ECJ**) found in favour of the members. The Scheme has been in the PPF assessment period for a long time because of this, and related litigation, which affects the amount of pension due to some members.
- It has yet to be determined whether Mr H will benefit from Hampshire, Hughes and Bauer legal cases or GMP equalisation:

⁶ See Appendix 1.

“Legal & General have advised the Trustee that their preference is for all amendments arising from Hampshire, Hughes, Lloyds (GMPE)⁷ and Bauer to be carried out in one go. This has therefore led to the Scheme Actuary having to factor in additional calculations to cover all four legal cases. As the Scheme still has over 16,000 members this is a considerable exercise that remains ongoing, albeit we anticipate it should conclude during 2025.”

- Should Mr H elect to retire at this time, the benefits paid to him may need to be increased in the future depending upon whether he is deemed to be impacted by the rulings from the respective Hampshire, Hughes and Bauer legal cases or by any uplift that may be payable in respect of GMP equalisation.

On the service provided to Mr H

- It does not dispute Mr H’s unhappiness, but both L&G and the Trustee tried to answer the questions he and his union representative raised between 2020 and 2021. Due to the volume of correspondence, there may be queries that have not been answered to the level that Mr H would desire, but considerable time has been spent on addressing the points he has made.
 - It seems, since L&G’s genuine mistake in April 2020, Mr H has desired for his case to go to TPO regardless of the actions taken by L&G and the Trustee to appease him.
 - It notes that Mr H appears to have previously contacted both his local MP and the PPF concerning his grievances. After initial investigation it appears that both parties closed their cases and have deemed that Mr H’s stance is incorrect. Again, this is further evidence that fundamentally Mr H is unwilling to accept that his pension should be reduced.
 - It has tried to be sympathetic of Mr H’s health concerns during its dealings with him and believes L&G has done the same.
 - It believes that Mr H is now in a position to be able to decide whether he wishes to receive his benefits now or wait until his NPA.
35. L&G’s position is as per its letters to Mr H of 30 April and 21 July 2020 (respectively see paragraphs 17 and 19 above).
36. L&G has confirmed that as Mr H has not cashed the previously issued £100 cheque it is happy to either reissue it or make the payment directly to Mr H if his bank details are provided.

⁷ Guaranteed Minimum Pension (**GMP**) equalisation. The duty to equalise for the effect of GMPs only applies in respect of GMPs accrued on and from 17 May 1990 up to and including 5 April 1997. That is, from the date of the Barber decision to the day before GMPs were abolished (on 6 April 1997).

Adjudicator's Opinion

37. Mr H's complaint was considered by one of our Adjudicators who concluded that no further action was required by the Trustee and L&G. The Adjudicator's findings are set out below as follows:-

- When the Scheme entered a PPF assessment period in July 2006 the Scheme rules were superseded by PPF legislation.
- In late 2011, the Trustee entered into a bulk annuity contract (**the Agreement**) with L&G. This secured for deferred pensioners benefits at least equivalent to PPF level benefits at NPA. For Mr H, that was 90% of his accrued entitlement under the Scheme on 10 July 2006 with PPF increases to age 60.
- In 2020, Mr H successfully applied to L&G for the early payment of his deferred pension on the grounds of ill health. The Early retirement quotations Mr H subsequently received from L&G appeared to have been calculated in accordance with the Agreement.
- As Mr H was below NPA and his life expectancy was not less than 12 months, an actuarial reduction applied in accordance with clause 4.4.2 of 'Schedule 3 Insured Benefits' (see Appendix 2).
- The Scheme remained in the PPF assessment period, and the Trustee anticipated that amendments to members benefits arising from the legal cases, Hampshire, Hughes and Bauer, and GMP equalisation would be completed sometime in 2025.
- If Mr H decided to take his benefits now and it was subsequently deemed that he was due an uplift his benefits would be adjusted accordingly.
- The Adjudicator also gave some thought as to whether it would be appropriate for Mr H to receive a payment for non-financial injustice; commonly referred to as distress and inconvenience. The Adjudicator noted the Pension Ombudsman's (**the PO**) starting amount was £500 for significant distress and inconvenience⁸.
- L&G sent Mr H a cheque for £100 for incorrectly referring him to the FAS. Mr H did not bank the cheque. While the Adjudicator accepted that Mr H was caused inconvenience by L&G's incorrect advice, the Adjudicator did not consider it merited a payment of £500. The Adjudicator said if Mr H now wished to accept L&G's offer, he should contact L&G.
- The Trustees conceded there may have been queries raised by Mr H and his Union representative that had not been answered to level Mr H desired. The Adjudicator noted that there was a delay in responding to Mr H's May 2020

⁸ https://www.pensions-ombudsman.org.uk/sites/default/files/publication/files/Updated-Non-financial-injustice-September-2018-2_0.pdf

queries and the response to his queries raised in May 2021 was not ideal.

However, on balance, the Adjudicator's view was that the circumstances of Mr H's case did not quite meet the threshold for a distress and inconvenience payment in line with the PO's current guidance.

38. Mr H did not accept the Adjudicator's Opinion and the complaint was passed to me to consider. Mr H has provided his further comments which do not change the outcome. I agree with the Adjudicator's Opinion and note the additional points raised by Mr H.

Mr H's additional points

39. Mr H submits:-

- His concerns were not fully considered by the Adjudicator. In particular, the lack of accuracy of information provided to him.

The main reason he applied for his pension was because he was diagnosed with Myeloma and was given three years to live. While he has passed this timescale he has to have blood tests every three months. His para protein is on the rise but classed as stable but will become full blown in the future.

- Despite requesting clear figures and full documentation on multiple occasions, he was not provided with this making it impossible for him to make important decisions which will affect him and his family. He feels the Adjudicator's opinion is biased taking L&G's side without acknowledging the full details he has submitted.
- He believes this situation has caused him significant frustration over the years and lead him to having chronic fatigue syndrome, chronic pains in his body, collapsing on multiple occasions and a stroke / transient ischemic attack. So, he disagrees that L&G's compensation award of £100 is fair.
- He has never been the awkward or unreasonable person that L&G appear to have portrayed him.
- He would appreciate his feedback to be considered when handling future cases as there is no deterrent in the Adjudicator's Opinion, for L&G to stop treating people in the future as they have treated him, which he believes is totally wrong.

Ombudsman's decision

40. In respect of Mr H's primary complaint that he was provided with incorrect retirement quotations, I have seen no evidence to suggest that the retirement quotations he was provided with were incorrect save that the quotation providing for an early retirement in March 2020, before he reached age 55, may not have been permitted under the PPF legislation which applied to restrict the benefits payable to him during the assessment period. Mr H did not accept that quotation and did not suffer any injustice or detriment from being offered that quotation.

41. As the Scheme was in PPF assessment, his benefits under the Scheme rules were required to be reduced so as not to exceed the provisions of the Pensions Act 2004, including Schedule 7 to that Act (*Pension compensation provisions*), and regulations made thereunder (including the Pension Protection Fund (Compensation) Regulations 2005). This required his benefits to be reduced to 90% of the benefit otherwise payable to him under the Scheme rules and for actuarial factors approved by the Board of the PPF to be applied on early retirement before his normal pension age.
42. While I cannot confirm that the calculation of the quotations is correct, no evidence has been provided that indicates that the quotations were incorrect. Therefore, in relation to the retirement quotations provided, I determine that there has been no maladministration causing injustice to Mr H.
43. I am also satisfied that the Adjudicator properly considered Mr H's complaint before issuing their Opinion. While Mr H clearly disagrees with the Adjudicator's Opinion, I do not find it was biased in favour of L&G.
44. As the Adjudicator explained my awards for non-financial injustice start at £500 for significant distress and inconvenience. I agree with the Adjudicator that L&G's error in referring Mr H to the FAS caused Mr H inconvenience but not sufficient to merit a payment of £500 for significant distress and inconvenience.
45. Mr H says there was a lack of accuracy in the information given to him by L&G.
46. The Adjudicator's view was that the early retirement quotations issued by L&G after Mr H's successful application for ill health retirement appeared to be correct but there had been a delay in responding to Mr H's May 2020 queries and the response to his queries raised in May 2021 had not been ideal. On balance, the Adjudicator considered that the circumstances of Mr H's case did not quite meet the threshold for a payment of £500. I agree.
47. As the Adjudicator said, if Mr H now wishes to accept L&G's compensation offer of £100, he should contact L&G direct.
48. I do not uphold Mr H's complaint.

Camilla Barry

Deputy Pensions Ombudsman
25 February 2025

Appendix 1

Hampshire v The Board of the Pension Protection Fund

In 2018, the Court of Justice of the European Union (**ECJ**) ruled that individual members of pension schemes should receive at least 50 per cent of the value of their accrued pension benefits in the event of employer insolvency.

PSV v Gunter Bauer

In 2019, the ECJ restated that, as a minimum, every individual must receive at least 50% of their accrued benefits.

Hughes and Others v The Board of the Pension Protection Fund

This case was brought as a result of the Hampshire judgment and the PPF's plans to remedy the compensation levels to comply with the judgment. Additionally, the compensation cap was challenged as discriminatory on the grounds of age.

In June 2020, the High Court held that:-

- The remedy to Hampshire proposed by the PPF was inadequate.
- The application of the compensation cap to reduce the pensions of those below normal pension age (**NPA**) gave rise to unlawful discrimination on the grounds of age. Persons below NPA age when their employer became insolvent were treated less favourably than those who were above NPA as those below NPA had their compensation capped. That differential treatment was not objectively justifiable. The compensation cap had therefore to be disapplied. The claimants would now receive compensation or pension benefits without reduction by reason of the application of a cap. Further, the claimants could seek to recover arrears of compensation from the Board for a period of up to six years.

In July 2021, the Court of Appeal:-

- Supported the PPF's proposed one-off calculation approach for increasing payments to PPF and FAS members following the Hampshire ruling, thereby overturning the decision of the High Court.
- Confirmed the High Court's decision that the PPF compensation cap was unlawful based on age discrimination and had to be disapplied.

Regulations are now in force that remove the now redundant references to the compensation cap, and the 50 per cent test resulting from the Hampshire ruling now applies.

Appendix 2

Agreement between the Trustee (at the date of execution Alexander Forbes Trustee Services Ltd) and L&G for the bulk purchase of annuity benefits relating to 'The T&N Retirement Benefits Scheme' – 12 October 2011

1. Extract from 'Schedule 3 Insured Benefits':

"4.4 Options available

Each **Deferred Annuitant** will be permitted to exercise on request any of the following options subject to HMRC and other statutory requirements...

4.4.1 Transfer

Once the **PPF Assessment Period** has ended, assuming the Board of the PPF has not assumed responsibility for the Scheme, payment of a transfer value to a group or individual registered pension arrangement, provided the **Deferred Annuitant** has not commenced to receive his/her deferred annuity.

4.4.2 Early Retirement

Commencement of the deferred annuity at a reduced level from a date earlier than **NRD**⁹, provided the **Deferred Annuitant** has attained the age of 55, or earlier provided that such **Deferred Annuitant** is in ill-health or incapacitated and satisfies the following condition:

"A person who, in the opinion of Legal and General's Chief Medical Officer, is totally and permanently incapacitated by sickness or injury so that he/she is unable to engage in any occupation for which he/she is reasonably fitted by training, education or experience and is not following any other occupation or employment."

⁹ Normal Retirement Date.