

## Ombudsman's Determination

Applicant	Mr N
Scheme	IBM Pension Plan ( <b>the Plan</b> )
Respondents	IBM (UK) Pensions Trust Limited ( <b>the Pension Trust</b> ); and XPS Pension Group ( <b>XPS</b> )

### Outcome

1. I do not uphold Mr N's complaint, and no further action is required by the Pension Trust or XPS.

### Complaint summary

2. Mr N complained that the Pension Trust and XPS caused excessive delays to the transfer of his pension from the Plan into his Standard Life Self Invested Personal Pension (**SIPP**).
3. He says that the delay resulted in a loss of investment growth and claims redress of £8,689.02.

### Background information, including submissions from the parties

4. The sequence of events is not in dispute, so I have only set out the salient points.
5. Mr N held both Defined Benefits (**DB**) and Defined Contribution (**DC**) benefits in the Plan. Prior to 1 June 2021 the administration of the Plan was handled by an in-house Pension Trust administration team.
6. On 26 March 2021, Mr N requested a transfer of his DC benefits to his Standard Life SIPP.
7. On 6 April 2021, Mr N formally retired from his employment with IBM United Kingdom Ltd. The Pension Trust requested the disinvestment of his DC benefits on the same day, as this could not be done prior to his retirement date.

8. On 22 April 2021, the Pension Trust completed the final recalculations of Mr N's benefits and sent the transfer paperwork to Mr N by email.
9. On 27 April 2021, Mr N's Independent Financial Advisor (**the IFA**) returned the completed transfer paperwork to the Pension Trust. The IFA also forwarded transfer paperwork to Standard Life, on the same day, for completion.
10. On 14 May 2021, the Pension Trust received completed transfer paperwork from Standard Life. Also on 14 May 2021, the Pension Trust began the additional due diligence process, and emailed Mr N with additional questions to be answered.
11. On 24 May 2021, Mr N contacted the IFA to request an update.
12. On 26 May 2021, the IFA contacted the Pension Trust requesting an update on the transfer. The Pension Trust said it was unable to proceed with the transfer without Mr N's response to the additional questions sent to him by email on 14 May 2021.
13. On 27 May 2021, Mr N contacted the Pension Trust and said he had not received the email that was sent on 14 May 2021.
14. On 28 May 2021, the Pension Trust resent the additional questions to Mr N by email. It also stated that once all necessary paperwork was received it could take between five to fifteen working days to complete the disinvestment and the payment of his pension to Standard Life. It also informed him that in future he would need to contact XPS, as the administration of the Plan was being transitioned to it.
15. On the same day, Mr N provided his response to the additional questions.
16. On 1 June 2021, the administration of the Plan was transferred from the Pension Trust to XPS.
17. On 3 June 2021, Mr N contacted the Pension Trust and said that XPS had informed him that it was unable to progress the transfer as the administration transition had still not completed. It did not have access to the files and the systems that it needed. Mr N requested that the Pension Trust complete the transfer, as XPS was unable to do so.
18. On 7 June 2021, the Pension Trust responded to Mr N and said that it had escalated the matter to XPS' Operations Manager.
19. On 11 June 2021, Mr N contacted XPS as he had not received confirmation of the transfer. XPS confirmed that it had received the information it required, and the Operations Manager would be contacted to progress the transfer.
20. On 15 June 2021, XPS actioned the transfer request.
21. On 17 June 2021, the transfer payment was sent to Standard Life. The payment reference was included in the CHAPS description field in the payment system and Mr N's last name was included in the Member Name field. XPS also sent a letter to

Standard Life confirming that the transfer payment had been made. The letter included the amount paid, the payment reference and Mr N's name.

22. On 24 June 2021, Standard Life informed the IFA that it had not yet received the transfer payment from XPS.
23. On the same day, the IFA contacted XPS to request confirmation of the amount sent and the payment details it used when the payment was sent to Standard Life.
24. On 28 June 2021, the IFA confirmed to Mr N that the transfer payment was on the platform with Standard Life.
25. On 5 August 2021, Mr N raised a complaint under the Plan's Internal Dispute Resolution Procedure (**IDRP**).
26. On 3 September 2021, the Pension Trust provided its Stage One IDRP response. It did not uphold Mr N's complaint and said that there had not been any excessive delays by the Pension Trust or XPS.
27. On 20 September 2021, Mr N invoked Stage Two of the Plan's IDRP.
28. On 10 November 2021, the Pension Trust provided its Stage Two IDRP response. It did not uphold the complaint.
29. Following the complaint being referred to The Pensions Ombudsman (**TPO**), Mr N and the Pension Trust have made further submissions that have been summarised below.

**Summary of Mr N's position:-**

- He has said that the Pension Trust and XPS caused excessive delays in the transfer of his pension funds to Standard Life. He is unhappy with the process and the extent to which the administration teams followed up with him in order to progress his transfer. He suffered a financial loss of £8,689.02 as a result of the delays.
- The Pension Trust provided additional questions on 14 May 2021 which delayed the transfer process. Mr N did not receive the email with the additional questions and the Pension Trust failed to resend these questions when it did not receive a response.
- The Pension Trust did not provide the additional questions with the transfer paperwork that was issued on 22 April 2021 and also, did not expressly state that further information would be requested.
- There were delays caused by the transition of the administration to XPS during the transfer and the process was not properly handled.

- There were failings by XPS in applying the appropriate referencing to the transfer payment that was sent to Standard Life, which delayed the reinvestment of his funds.

**Summary of the Pension Trust's position:-**

- It does not agree that there were any excessive delays in settling the transfer of Mr N's pension funds.
- The completed transfer forms from Standard Life were received on 14 May 2021. On the same day, the Pension Trust reviewed the documentation and issued some additional questions. These questions were in line with industry guidance designed to protect members from the risk of transfer scams. They were sent out by email on the same day and it does not consider that there had been a delay in progressing this aspect of the transfer.
- The extent of the further information required will vary depending upon the details of the member's specific transfer request. The Pension Trust cannot assess the validity of a transfer request, and the further information that may be required to protect members against transfer scams, until the completed transfer forms have been received and inspected.
- It was sorry that Mr N did not receive the email with the additional questions on 14 May 2021. However, The Pension Trust noted that the email was sent to the email address that was held for Mr N and was used both previously and subsequently to communicate with him. It also confirmed that it received no bounce back or notification to indicate that Mr N did not receive the email.
- The Pension Trust resent the additional questions to Mr N in an email once it was informed that the email was not received. This email also stated that the transfer would take between five to fifteen working days to complete on receipt of the further information requested.
- The Pension Trust considers that it was not required to chase Mr N as it could be argued that it would have been inappropriate given that Mr N had not committed to a transfer at that stage. It was not for the Pension Trust to put pressure on a member to make such a transfer. The IFA followed up on the progress of the transfer only eight working days after the original email was sent. As such, the Pension Trust believed that there were no grounds to conclude that there was a delay at this point caused by it.
- All members were informed of the transition of the administration to XPS and the dates that the switch over would take place.
- It received the final correspondence required to proceed with the transfer on 28 May 2021, and the transfer payment was made on 17 June 2021, which was 15 working days later. This was within the standard service level agreement (**SLA**) of 20 working days and within the statutory timescales of six months.

- XPS used the reference number expressly provided by Standard Life in the transfer forms returned to the Pension Trust on 14 May 2021, when it completed the transfer payment. In addition, on the same day the payment was made, XPS wrote to Standard Life to confirm the payment had been made, the amount of the transfer payment and the reference number used.
- It does not uphold Mr N's complaint, and it rejects the request for compensation for the potential investment growth loss.

## **Adjudicator's Opinion**

30. Mr N's complaint was considered by one of our Adjudicators who concluded that no further action was required by the Pension Trust and XPS. The Adjudicator's findings are summarised below:-

- The Pension Trust issued additional questions to Mr N on 14 May 2021, having received the completed transfer paperwork. The Adjudicator was of the view that this did not amount to maladministration. The Pension Trust explained that the extent of the additional information required would vary depending upon the specific details of each case, and that it therefore needed to assess the completed transfer paperwork before requesting additional information. The additional questions were issued to Mr N in line with industry guidance designed to protect members from the risk of transfer scams, and the processing of the additional information request was not delayed as this was done on the same day that the transfer paperwork was received.
- It may have been better practice by the Pension Trust to inform Mr N that additional information may be necessary. However, the Adjudicator was of the view that choosing to not include this information in the transfer paperwork that was issued to Mr N, did not cause additional delay to the transfer process.
- Mr N said that he did not receive the email, with the additional questions, that was sent on 14 May 2021. Considering that the Pension Trust did not receive any notification of the email not being received by Mr N, and it had confirmed that previous and subsequent correspondence was sent to the same email address that it held for him, on the balance of probabilities, it was the Adjudicator's view that the additional questions were more than likely issued to the correct email address.
- Mr N was unhappy that the Pension Trust did not follow up its email of 14 May 2021, once it did not receive a response from him. It was the Adjudicator's view that again, it would have been good practice by the Pension Trust to follow up a request after a reasonable amount of time. However, since the IFA did contact the Pension Trust within eight working days of the email being sent and was informed of the additional questions, it was the Adjudicator's opinion that this did not cause a delay.

- Mr N also complained that there were additional delays to the transfer of his pension due to the poor handling of the transition of the administration of the Plan to XPS. The Adjudicator was of the view that it was not unreasonable for there to be a slight delay by XPS in dealing with Mr N's transfer after such a significant switch. In any event, XPS still completed the transfer within a reasonable timeframe, and so its actions did not amount to maladministration.
- Mr N also stated that additional delays to the reinvestment of his pension were caused by XPS' failure to apply the appropriate referencing to the transfer payment that was sent to Standard Life. Although Standard Life may not have received the reference at their end, it was the Adjudicator's opinion that XPS could not be held responsible for this. The Adjudicator had not been provided with any evidence that suggested that XPS had been instructed to include the payment reference in a specific field. XPS did what it was instructed to do, and so the Adjudicator did not consider its actions amounted to maladministration.

31. On 10 April 2024, Mr N said that he did not accept the Adjudicator's opinion. He provided further comments in response to the Opinion, which TPO responded to on 15 April 2024.

32. On 2 May 2024, Mr N provided additional comments. He also provided copies of correspondence with XPS regarding its process when making a transfer payment from 9 April 2024 and 30 April 2024. The correspondence said:-

"I can confirm that our [XPS] process is to include the receiving scheme reference number in both the CHAPS Description and Additional Narrative fields when we make transfer payments for the IBM pension scheme.

...

I can confirm that this has been the process since XPS began administering the scheme."

33. On 8 May 2024, TPO contacted the Pension Trust and queried its position on why the reference number was not included in both the CHAPS Description and Additional Narrative fields when Mr N's transfer payment was made to Standard Life.

34. On 20 May 2024, the Pension Trust responded and said that the information Mr N had been provided was incorrect. It explained that XPS' process was to complete the CHAPS description, but the Additional Narrative field would not have been completed. It also provided a copy of XPS CASHFAC User Guide (**the User Guide**). It said:-

" ...

CHAPS description is not required

Narrative/Roll number – if the payment is going to a building society account, the roll number must be entered here. Otherwise add the reference you wish the payee to see on their bank statement.

Additional Narrative – If you entered a building society roll number, enter the reference you wish the payee to see on their bank statement here. Otherwise just enter “.” (as you can't leave blank).

...”

35. On 18 June 2024, TPO provided Mr N with the response from the Pension Trust.
36. On 24 June 2024, Mr N provided his comments to the response by the Pension Trust. He said:-
  - He was informed by two different staff members at XPS about the pension transfer process, and it is very difficult for him to believe that they would both make the same error.
  - The Pension Trust had said that XPS' process was to include the reference number in the CHAPS description. However, this is contradictory to what the User Guide states.
  - He believes that XPS should have entered the reference number in the 'Narrative/Roll Number' field, or the 'Additional Narrative' field based on the information in the User Guide, as Standard Life would have received these fields.
37. On 4 July 2024, TPO contacted the Pension Trust and asked for its comments to the claims made by Mr N.
38. On 17 July and 7 August 2024, the Pension Trust provided its comments to the claims made by Mr N. It said:-
  - It can confirm that the position is as previously described and the process that XPS operate was properly followed in this case with the CHAPS description being completed.
  - As this is an administrative process those on the call centre team would not have detailed knowledge of the systems and processes around completion of such fields.
39. On 23 September 2024, the Pension Trust provided clarification and said that the User Guide reflected the current process in place.
40. On 24 September 2024, Mr N provided his final comments in response to the Opinion, which are summarised as follows:-
  - The Pension Trust did not communicate the existence of additional pension transfer questions, and it did not use a consistent communication method to send the questions.

- He did not receive the email of 14 May 2021, and the evidence provided by the Pension Trust does not show that the email was sent to the correct email address, as it does not show the full recipient address.
- The recipient's name that appears on the emails of 14 May 2021 and 28 May 2021 are different. It is therefore likely that the email was sent to the wrong address as the email he used changed at the end of March 2021, after he left his employment.
- If he had not taken proactive action to contact the IFA regarding the transfer the transfer process would have been paused indefinitely, since the Pension Trust's process was to not perform any follow up after sending the additional questions. He considers this to be poor administration practice and a failure to provide an adequate service.
- The transition of the administration of the Plan did not complete on 1 June 2021. There were significant transition issues 10 days later on 11 June 2021, which impacted the transfer of his pension.
- If his pension transfer was treated as a priority, then it should have been completed in the shorter time frame expectation of five days as specified by the Pension Trust and should not have required his persistent chasing.
- He considers that the Pension Trust has provided contradictory information about its transfer payment process. It has not provided any additional evidence to show what its documented process was in June 2021 at the time of his pension transfer.
- If the current User Guide process had been used for his pension transfer, then the essential reference number would have been received by Standard Life, and the allocation of his transfer payment to his SIPP would not have been delayed. It was XPS' responsibility to provide the correct reference number with the payment transfer.
- The Pension Trust has provided inaccurate key statements throughout the complaint process. He considers that the failures collectively amount to maladministration which has caused him significant distress, inconvenience and financial loss.

41. As Mr N did not accept the Adjudicator's opinion the complaint was passed to me. I have considered Mr N's further comments but they do not change the outcome, I agree with the Adjudicator's Opinion.

### **Ombudsman's decision**

42. I agree with the Adjudicator that it did not amount to maladministration for the Pension Trust to issue additional questions by email on 14 May 2021, following receipt of the completed transfer paperwork. It could only request more information



after the receipt of the completed transfer forms as the required information would vary depending on each case. It was necessary for it to ensure that sufficient due diligence had been carried out to protect its members from the risk of transfer scams.

43. I recognise that Mr N has said that the Pension Trust should have informed him that additional information may be required. Although this may have been good practice, there is no legal requirement to do so and it did not cause an unnecessary delay to the transfer of Mr N's pension. The additional information request was issued on the same day as the completed transfer paperwork was received.
44. I find that the Pension Trust acted appropriately by issuing the additional questions to the email address it held for Mr N. Mr N did not specify to the Pension Trust that he did not wish to receive communication by email, and the alternative method of communication would have been by postal delivery, which is generally a slower form of communication.
45. I recognise that Mr N said that it is likely that the email of 14 May 2021 was sent to the wrong email address. It is unfortunate that the Pension Trust do not hold copies of the emails that were sent on 14 May 2021 and 28 May 2021, which would include the full recipient email address.
46. It cannot be confirmed with absolute certainty that the email of 14 May 2021 was issued to the correct email address. However, the Pension Trust has confirmed that it did not receive a notification that the email was not received, and previous and subsequent correspondence was sent to Mr N's correct email address. Therefore, I find that, on a balance of probabilities, the questions were sent to the correct email address on 14 May 2021.
47. As Mr N received the additional questions on 28 May 2021, 10 working days after it was initially sent, I do not find that there was an unreasonable delay caused by the Pension Trust. I appreciate that Mr N believes that he would not have received the additional questions, had he not taken proactive action to contact the IFA. However, having reviewed the circumstances I do not find that there was maladministration by the Pension Trust.
48. I also find that XPS paid the transfer payment to Standard Life within a reasonable timeframe once it had received all the necessary information on 28 May 2021. Mr N was informed by the Pension Trust that it could take between five and 15 working days to complete the transfer. The transfer payment was sent to Standard Life on 17 June 2021, which was 13 working days after it received all the required information to progress the transfer.
49. I appreciate that Mr N is of the view that the transfer of his pension was also delayed due to the Pension Trust's mishandling of the transition of the administration of the Plan to XPS. I do not find that this is the case, as the period in which to affect the transfer between the Pension Trust and XPS was not unreasonable. Mr N was informed of the timeframe and XPS completed the transfer within its SLA. I agree with the Adjudicator that XPS' actions did not amount to maladministration.

CAS-82155-H7B1

50. XPS has confirmed that it followed the correct procedure at the time of Mr N's pension transfer, when it included the receiving scheme reference number in the CHAPS description. It also included the reference number, Mr N's last name and the payment amount in the confirmation letter that it sent to Standard Life. I therefore do not find that XPS is responsible for any delay that occurred following the transfer payment to Standard Life.
51. I do not uphold Mr N's complaint, and no further action is required by the Pension Trust or XPS.

**Anthony Arter CBE**

Deputy Pensions Ombudsman

2 December 2024