

## Ombudsman's Determination

Applicant	Mr O
Scheme	Mercer Master Trust ( <b>the Mercer Trust</b> )
Respondents	Mercer Limited ( <b>the Trustee</b> ) Scottish Widows Limited ( <b>Scottish Widows</b> )

## Outcome

1. I do not uphold Mr O's complaint and no further action is required by the Trustee or Scottish Widows.

## Complaint summary

2. Mr O complained that he was not informed that the Mercer Trust administrator was changing from Zurich Assurance Ltd (**Zurich**) to Scottish Widows.
3. Mr O said that he was not given the opportunity to transfer his pension or opt out before the change happened and he is unsure if he would now incur different costs.

## Background information, including submissions from the parties

4. Mr O was employed by Johnson Controls Building Efficiency UK Limited who used the Mercer Trust to provide employees with a defined contribution pension. Zurich was the administrator at the time that Mr O became a member of the Mercer Trust.
5. In October 2017, Scottish Widows acquired Zurich.
6. On 1 July 2019, Zurich's workplace pensions related business was transferred to Scottish Widows.
7. Mr O became aware that there had been a change of administrator when he received his annual benefit statement.
8. In May 2021, Mr O telephoned Scottish Widows and stated that he was unhappy that administration of the Mercer Trust had transferred from Zurich to Scottish Widows, and he had not been informed that the change was going to happen.
9. On 14 May 2021, Scottish Widows sent a letter to Mr O and stated in summary:-

- In October 2017 it was announced that Scottish Widows had entered into a deal to acquire the majority of Zurich's workplace and savings business.
  - On 1 July 2019, the final part of this process was completed, which included the transfer of the Mercer Trust from Zurich to Scottish Widows.
  - Regrettably, it was not given the opportunity to communicate with members in relation to the transfer. It apologised for any confusion and inconvenience that had been caused.
10. On 12 June 2021, Mr O sent an email to Scottish Widows and said in summary: -
- He had now received a copy of its complaint response by post after chasing at least three times for a copy.
  - He was very disappointed with the outcome. All members should have been informed of the initial steps regarding the transfer away from Zurich and then of the final transfer to Scottish Widows.
  - He wanted his complaint taken further.
11. On 18 June 2021, Scottish Widows replied to Mr O and stated in summary:-
- Its response to his original concerns remained unchanged. It had provided Mr O with information regarding the reason for him not receiving any communication about the transfer. It had apologised for this.
  - Mr O had requested a posted copy of its previous response. It was clear that he had spoken with the Help Point Team on a number of occasions but the request was not actioned by them. It offered him £50 for the distress and inconvenience caused by this issue.
  - It also set out the process for dealing with Mr O's complaint under the Mercer Trust's Internal Dispute Resolution Procedure (**IDRP**) if he was unhappy with the outcome.
12. On 23 June 2021, Mr O sent an email to Scottish Widows. He said in summary:-
- Scottish Widows had referred to an announcement about the change but he did not know who it had been made to and by what method.
  - When the acquisition was completed all the members should have been informed in writing.
  - The changes started in October 2017, and were finalised in July 2019, so there had been ample opportunity to inform members. He was sure the lack of communication meant that Scottish Widows had not complied with pensions regulations.
13. On 25 June 2021, Scottish Widows replied to Mr O by email and stated in summary:-

- As this was a change in the administration provider for the Mercer Trust from Zurich to Scottish Widows, members were not able to opt out, and no changes were made to member selected funds.
  - It had apologised for not sending Mr O any communication regarding the transfer, and its complaints process had now been exhausted.
14. On 12 July 2021, Mr O sent a letter to the Trustee. He questioned: (i) why was he not informed in writing, in October 2017, that Zurich was potentially being taken over by Scottish Widows; and (ii) why was he not informed in writing, in July 2019, that the acquisition had taken place. He said that he had to contact Scottish Widows on at least four occasions to get a written reply to his queries. This issue had caused a lot of confusion as he already had a personal pension with Scottish Widows.
15. On 1 September 2021, Mr O telephoned Scottish Widows to say that he would have considered moving his pension away from the Mercer Trust if he had known that there was going to be a change in provider. Scottish Widows explained that there had been no change to Mr O's pension aside from the change in administrator. There had been no change to the investments and he had not been outside the market for any time.
16. On 6 September 2021, Mr O telephoned the Trustee and asked why his complaint had not been dealt with. The Trustee explained the process for moving his complaint to the next stage.
17. On 7 September 2021, Mr O requested that his complaint was dealt with under the Mercer Trust's IDRPs and he resent his letter of 12 July 2021.
18. On 6 October 2021, the Trustee replied to Mr O under stage one of the IDRPs. In summary it said:-
- During Mr O's discussions with Scottish Widows, it advised him that there had been no change to his pension and that aside from the administration, all elements remained the same, including the investment of his pension funds.
  - It understood that Scottish Widows had offered a £50 distress and inconvenience payment. It felt this was appropriate for the nature of this complaint.
  - It understood that Mr O may have considered moving his pension plan away from the Mercer Trust and had he been advised of the change.
  - Unfortunately, it was not possible to predict market conditions and hence know whether Mr O would have been better off transferring his pension to another provider at that time.
19. On 11 January 2022, Mr O asked for his complaint to be considered under stage two of the IDRPs as the previous response did not address why he had not been told about the change in administrator.

20. On 24 February 2022, the Trustee replied to Mr O under stage two of the IDR. It said in summary:-

- While there was a change to the company who administered his benefits within the Mercer Trust there were no changes to the investments and fund range available. As such he did not experience any out of market exposure during the transition period.
- The Trustee carried out the appropriate due diligence to satisfy itself that the level of service that would be provided by Scottish Widows would be of an acceptable standard.
- As Mr O had not suffered any financial loss and Scottish Widows had offered a distress and inconvenience payment it did not uphold the complaint.

21. The Trustee's position

- The change from Zurich to Scottish Widows was essentially just a change of name – the people, systems and funds all remained the same. There was no change to the service a member received under the Mercer Trust including the charges. The members had not moved schemes or pension provider as a result of the change. In addition, the annual benefit statement that the members would have been receiving annually would have reflected the relevant branding after the change.
- The Trustee was comfortable that there was no material impact to members as a result of the change in administrator. Members received log in details for the revised member portal which would have reflected the change in administrator.
- As nothing material changed there was no need to disclose and therefore no breach has occurred.

## **Adjudicator's Opinion**

22. Mr O's complaint was considered by one of our Adjudicators who concluded that no further action was required by the Trustee or Scottish Widows. The Adjudicator's findings are summarised below:-

- The acquisition of Zurich by Scottish Widows was essentially a business transaction. All the terms and conditions of the Mercer Trust remained the same after the change in administration. Although the Adjudicator appreciated that Mr O would have preferred to receive a clear and direct mailing regarding this change, he was provided with information about the change in his annual benefit statements.
- In addition, Mr O was able to access further information by using the online portal which would have also made the change in administration clearer as he

would have been provided with a change in log in details. So, in the Adjudicator's opinion, suitable information was made available to Mr O for him to have reasonably been aware that there was a change in the name of the administrator. Although this was after it had happened there was no requirement for the Trustee to seek Mr O's consent or approval of the change.

- Scottish Widows had now explained to Mr O that there has been no change to his pension with the Mercer Trust and there had been no change to any fees or charges. It was not usual to notify members in advance of a rebranding following an acquisition, or to give members the option to move their pension to another provider in these circumstances.
- The Trustee said that the change of administrator of the Mercer Trust was not a "material" change. Section 8 of The Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013 sets out that members and beneficiaries must be informed of material alterations to basic scheme information. The Adjudicator agreed with the Trustee that a rebranding of the administrator was not a material change to the Mercer Trust, so there was no specific requirement to inform members of the change before it happened.
- The Adjudicator would have expected the Trustee to have provided some information following the change in administrator, to reassure members that there would be no changes to the operation of the Mercer Trust. However, the fact that this was not done was not maladministration. Mr O had now been given this information and should be aware that there has been no change to how his pension operated. If he was unhappy with the new administrator of the Mercer Trust he could request a transfer.
- Scottish Widows offered Mr O £50 in recognition of the delay in sending him a written response to his complaint. In the Adjudicator's opinion this was appropriate in the circumstances.

23. Mr O did not accept the Adjudicator's Opinion and the complaint was passed to me to consider. He provided some additional comments which are summarised below:-

- The fact that his annual statement had a different name heading, did not notify him of a takeover.
- He did not use the online services so they should not be used as the only means of communications.
- Staff who still worked for Johnson Controls were notified of the change.
- He was sent an out of date complaint procedure which was very poor on top of poor communications from the Administrator. He had to spend additional time chasing up his complaint and then he had to resubmit it in full.

- The takeover took several years to go through and so there was ample time to communicate it to members.
- It took a long time for him to actually receive a respond to his queries and there does not appear to be a reason for this.

24. I note the additional comments provided by Mr O which do not change the outcome. I agree with the Adjudicator's Opinion.

### **Ombudsman's decision**

25. Mr O complained that he was not informed that the Mercer Trust administrator was changing from Zurich to Scottish Widows.
26. The change in Administrator was a name change only. Mr O's pension was unchanged and the services offered by the Administrator including the fees and charges remained the same. Mr O has now been reassured of this and is aware of the scope of the change.
27. Mr O has said that the name change on his annual benefit statement was insufficient and he should have been informed before the change that it was going to happen. Particularly as it took two years when Scottish Widows first acquired Zurich to the change in the Administrator. I agree with the Adjudicator that there was no obligation on Scottish Widows to inform Mr O before the change took place. This was regardless of how long the business reorganisation took place.
28. The fact that staff who still worked for Johnson Controls were given different information does not mean that Mr O should have been provided with these communications. Mr O did follow up on the name change with Scottish Widows so he did become aware that there had been a change even if he did not use the online services. He was also provided with an explanation of what had happened following his first phone call regarding the matter in May 2021. In addition, the information regarding the fact that Scottish Widows had acquired Zurich was in the public domain and Mr O could have satisfied himself of the circumstances of the change by a simple online search.
29. I acknowledge that there were some errors by Scottish Widows in how it handled Mr O's complaint but I consider that this was poor administration rather than maladministration. The £50 that has been offered is adequate in the circumstances.
30. I do not uphold Mr O's complaint.

### **Dominic Harris**

Pensions Ombudsman  
16 August 2023