

Ombudsman's Determination

Applicant	Mrs L
Scheme	Northern Ireland Local Government Superannuation Scheme (the Scheme)
Respondent	Northern Ireland Local Government Officers' Superannuation Committee (NILGOSC)

Outcome

1. I do not uphold Mrs L's complaint and no further action is required by NILGOSC.
2. My reasons for reaching this decision are explained in more detail below.

Complaint summary

3. There are three parts to Mrs L's complaint. These are:
 - NILGOSC delayed in providing her with a transfer valuation and, because of this, she missed the deadline to transfer her benefits out of the Scheme; and
 - NILGOSC failed to inform her that there was a deadline to transfer.
4. NILGOSC issued a CETV in error which lead her to spend money on a report which she did not need. To put the matter right, Mrs L is seeking £3,000 from NILGOSC to cover her independent financial advisor's (**IFA**) fees.

Background information, including submissions from the parties

5. Mrs L had two roles which were eligible for Scheme membership, an Administrator role and a Supervisory Administrator role.
6. In November 2014 and March 2015, Mrs L requested details to transfer out of the Scheme. Under the relevant regulations¹ at the time, as she was over 60, she was not entitled to a transfer. This was because she was over the Scheme's normal retirement age.

¹ The Local Government Pension Scheme (Administration) Regulations (NI) 2009

7. In April 2015, the regulations² changed and the normal retirement age for the Scheme became the same as the state pension age (65). As Mrs L was under 65, she became entitled to a transfer.
8. On 15 April 2015, Mrs L requested details of what effect a decrease in pay would have in a transferred redundancy scenario. She emailed NILGOSC on 27 April 2015 saying she had applied for transferred redundancy and felt that NILGOSC had not provided her with correct information. She chased this email by telephone two days later.
9. On 1 June 2015, Mrs L emailed to chase a cash equivalent transfer value (**CETV**) and asked about opting out of the Scheme. She chased NILGOSC again on 7 July 2015, which they acknowledged on the same day. NILGOSC responded on 8 July 2015 and, in their submission to this office, NILGOSC say:

“In this email we explained to Mrs L that transfers had undergone a significant change from April 2015 and that we were awaiting information from the Government Actuary’s Department to allow us to calculate transfer values and that, without that information, we could not provide a transfer quotation. The email also indicated that NILGOSC would endeavour to provide a quotation as soon as possible, this delay was outside of our control and many transfers had to be placed on hold as we awaited technical guidance from the Government Actuary’s Department. The email further invited Mrs L to contact NILGOSC by phone, to discuss the consequences of a redundancy or downgrading. Mrs L did not call. This guidance was not received until 3 August 2015.”
10. On 9 July 2015. NILGOSC phoned Mrs L to update her about the delay in calculating CETVs and on that day she requested a redundancy quotation. On 10 July 2015 NILGOSC issued the redundancy quotation.
11. On 11 August 2015, Mrs L visited NILGOSC’s offices. She said that she informed NILGOSC in this meeting that she would be having a transferred redundancy on 31 August 2015 and was informed that she would receive a quote ten days after her retirement. NILGOSC’s file note of that meeting reads ‘Member called to office and had a number of questions about retirement benefits and different options available at retirement’.
12. On 27 August 2015 NILGOSC Issued Freedom and Choice information as part of the CETV procedure.
13. Mrs L was made redundant from her Administrator role on 31 August 2015. Under the relevant regulations³, as she was over 55 she became eligible for immediate unreduced retirement benefits and therefore a transfer out of the Scheme was no

² The Local Government Pension Scheme Regulations (NI) 2014

³ Regulation 31(7) of the Local Government Pension Scheme Regulations (NI) 2014

longer possible in respect of this role. Her Supervisor role remained eligible for transfer.

14. On 10 September 2015, NILGOSC sent Mrs L a CETV for her Administrator role, calculated on the basis that she was still as an active member of the Scheme.
15. On 11 September 2015 Mrs L contacted an IFA for financial advice. She agreed on the same day to pay any fees associated with that advice (which was £3,000). She says her objective was to take the regulated advice required before she could transfer her benefits to a SIPP.
16. On 16 September 2015 Mrs L's employer informed NILGOSC that Mrs L had taken redundancy from her Administrator role. On 24 September 2015 NILGOSC issued Mrs L with benefit claim forms.. On 5 October 2015, Mrs L's employer confirmed to NILGOSC that Mrs L's employment had terminated on 31 August 2015.
17. On 8 October 2015 Mrs L visited NILGOSC's offices again enquiring about a CETV relating to her Supervisory role. She says she informed NILGOSC that she had already been made redundant from her Administrator role and a NILGOSC employee told her that she was no longer entitled to a transfer out of the Scheme for her that role. There is no contemporaneous note of that meeting, but a NILGOSC employee recalls the conversation and the fact that Mrs L complained on the spot that she had taken financial advice at some considerable cost and wanted NILGOSC to do something about that.
18. Mrs L wrote to NILGOSC on the same day saying that she did not want to take her benefits for the Administrator role, but to transfer them. NILGOSC replied on 15 October 2015 enclosing a CETV for the Supervisor role and telling Mrs L that they had been informed by her employer that she was made redundant from the Administrator role. It explained 'Although you have previously received a transfer out quote, you are now automatically entitled to the payment of pension benefits due to you being over the age of 55'. Mrs L says she never received this letter.
19. On 11 November 2015 Mrs L's IFA concluded a detailed financial report(provided to Mrs L on 19 November 2015), which recommended that she not transfer out of the Scheme. That report covered benefits and CETVs from both posts.
20. On 8 December 2015, Mrs L submitted transfer out forms to NILGOSC in relation to both posts. She was informed on 7 January 2016 that this was not possible for her Administrator role and the scheme would move ahead with the transfer of benefits for the Supervisor role.
21. Mrs L raised a complaint under the Scheme's internal dispute resolution procedure (IDRP).
22. Mrs L's complaint was not upheld under either stage of the IDRP, but NILGOSC did recognise and apologise to her for the delay in responding to her emails between April and July 2015.

23. In their submission to this office dated 11 November 2016, NILGOSC refute the complaint on the basis that:

- the delay in providing the CETV before Mrs L's redundancy date was due to factors outside of their control, specifically it was waiting for technical guidance from GAD which was not received until 3 August 2015;
- it did issue a CETV on 10 September 2015, but by then Mrs L had taken redundancy and was no longer entitled to transfer; the 'deadline' was created by redundancy;
- Mrs L could have opted out of the Scheme at any time prior to her redundancy but did not. Had she done so before accepting the redundancy it would still have been possible to transfer out. NILGOSC's email of 8 July 2015 asked Mrs L to contact them by phone if she wanted to discuss the consequences of redundancy or downgrading but she did not do so;
- Mrs L's employer did not inform it of her redundancy until nearly two weeks after it had been made by which time the CETV had already been issued. This is not in line with their guides on providing such information;
- When it issued the CETV it was not aware that Mrs L intended to take redundancy and to transfer out of the Scheme; and
- after the meeting on 8 October 2015, Mrs L should have contacted her IFA and attempted to mitigate her losses.

Adjudicator's views

24. Mrs L's complaint was considered by one of our Adjudicators who concluded that no further action was required by NILGOSC. The Adjudicator's findings are summarised briefly below:

- the Adjudicator agreed that there was a delay in providing the CETV to Mrs L before her redundancy date, but felt that she had not suffered the loss of the £3,000 as she would have had to seek this advice anyway;
- the Scheme Regulations do not allow a transfer out after a member is past age 55 and is made redundant and, instead, benefits are paid immediately and without reduction; and
- NILGOSC were not to know if and when Mrs L was to be made redundant until her employer had informed them. It could not have informed her of any "deadline" as it was not aware of her redundancy until nearly two weeks after her employment ended. Therefore, the CETV provided on 10 September 2015 was, to their knowledge, correct as they had not been informed by Mrs L's employer that she was no longer an active member of the Scheme.

25. Mrs L did not agree with the Adjudicator's views in relation to her complaint and has submitted, in summary:
- she informed NILGOSC of her redundancy in the meeting on 11 August 2015 and it should have updated its system with that information;
 - if she had not received the CETV in September 2015 she would not have sought advice from an IFA and thus incurred fees. She therefore disagrees that she is liable for those fees and would have transferred regardless of the advice; and
 - it was not her fault that there was a delay in providing her with a CETV from April 2015 and NILGOSC should have prioritised her application over others made later.
26. As Mrs L did not accept the Adjudicator's opinion, the complaint was passed to me to consider. Mrs L provided her further comments which do not change the outcome. I agree with the Adjudicator's opinion, summarised above, and I will therefore only respond to the key points made by Mrs L for completeness.

Ombudsman's decision

27. It is not disputed that Mrs L told NILGOSC that she was at risk of redundancy. However, NILGOSC were dependent on her employer telling them if and when this decision took effect and they did not do so until after the CETV was issued. I do not consider that it was maladministration for NILGOSC to issue the CETV in those circumstances. Mrs L has not complained about her employer.
28. I accept that Mrs L was interested in the advice primarily for the role it played in enabling the transfer which she wanted to effect, rather than for the guidance it contained. Her actions demonstrate that that was the case. I accept that she probably would not have obtained the advice but for receiving the CETV, but I do not consider that NILGOSC were at fault in issuing it, and therefore do not consider that they should be held responsible for any wasted cost associated with the report.
29. Turning to the delay issue, April 2015 was a time of big change for the pension industry with the introduction of pension freedoms. Many publicly funded occupational schemes, similar to the Scheme, had to make many changes to practices and policies to take into account new regulations and legislation. At the same time, many scheme members were also requesting transfers in order to take advantage of these freedoms. I do not think it unreasonable that NILGOSC decided to hold off on Mrs L's transfer request until they had received advice from the Government Actuary's Department. This was not received until 3 August 2015. The CETV in dispute was issued on 10 September 2015. NILGOSC have admitted that there were delays and offered an apology. Mrs L considers that she should receive a refund of the wasted cost of her IFA report but I cannot see any link between the delay and the decision to incur the cost of the IFA report. Mrs L needed the report in

order to transfer out. It is therefore likely that if the delay had not occurred she would have obtained the report anyway. NILGOSC cannot be liable for the cost of it on that basis.

30. I accepted that it was reasonable for NILGOSC to wait until they received the GAD advice. I have considered separately Mrs L's point that her application should have been prioritised. I have considered specifically whether the further delay which occurred after GAD's advice was available prevented Mrs L from transferring out and have concluded, for the reasons below and on the balance of probabilities, that it did not.
31. There were 19 working days between receipt of advice from GAD and the transfer window closing due to the redundancy. A number of things would have needed to have happened in this time in order for Mrs L to be able to transfer:
- NILGOSC would have needed to have received confirmation from Mrs N's employer that she was no longer a member of the Scheme (ie she would have had to opt out prior to being made redundant);
 - NILGOSC would have needed to calculate and issue the CETV;
 - Mrs L would have needed to have sought and received independent financial advice;
 - Mrs L would have needed to have returned all of the relevant forms; and
 - NILGOSC would have needed to have checked the CETV calculations and then made payment to Mrs L's selected pension provider.
32. It would seem very unlikely that this would have been possible in the 19 working days before Mrs L's redundancy, bearing in mind that Mrs L had not in fact opted out at any point prior to her redundancy. I conclude it was not the delay which caused her to be unable to transfer. It was the redundancy itself and the failure to opt out prior to its taking effect, neither of which was in the control of NILGOSC.
33. I therefore agree that the apology offered by NILGOSC is sufficient to acknowledge the delay caused due to their poor service. . It is unfortunate that the timing of Mrs L's redundancy a caused her to miss the transfer window, but I find this is not the result of any maladministration by NILGOSC.
34. Therefore, I do not uphold Mrs L's complaint.

Karen Johnston
Deputy Pensions Ombudsman
8 February 2017