

## Ombudsman's Determination

Applicant	Mr E
Scheme	Northern Foods Pension Scheme ( <b>the Scheme</b> )
Respondents	Capita Northern Foods Trustees Limited ( <b>the Trustees</b> )

## Outcome

1. I do not uphold Mr E's complaint and no further action is required by Capita or the Trustees.
2. My reasons for reaching this decision are explained in more detail below.

## Complaint summary

3. Mr E's complaint is about the reduction in the cash equivalent transfer value (**CETV**). He is unhappy that Capita and the Trustees can suddenly change the way in which the CETV is calculated in their favour to suit their needs.

## Background information, including submissions from the parties

4. On 4 March 2015, Mr E requested a CETV from the Scheme administrator, Capita. A CETV of £73,765.06 was issued on 26 March 2015 with an enclosed schedule dated 25 March 2015. The letter said that:

"The transfer value quoted is guaranteed for three months from the date of calculation as shown on the enclosed schedule."
5. On 16 April 2015, Capita were asked to send a copy of the CETV to Mr E's independent financial adviser (**IFA**). On 22 April 2015, Capita sent a copy of the March CETV to his IFA and reiterated that it was guaranteed until 25 June 2015.
6. On 19 June 2015, Capita sent a reminder to Mr E that the CETV was about to expire and all of the completed forms would need to be received by 25 June 2015 for the transfer to proceed.
7. Capita received the discharge forms from the receiving scheme, Royal London, on 9 July 2015; two weeks after the guaranteed period had expired. The discharge form was signed by Mr E on 2 July 2015.

8. As Capita received the completed discharge forms after the three month guaranteed period had expired, it issued a new CETV on 22 July 2015. The CETV was recalculated using the new basis that was applicable at the time. Following actuarial advice, the calculation of CETVs had changed since the original CETV of 25 March 2015. The CETV on the new calculation basis was £57,078.84.
9. Capita's letter of 22 July 2015 confirmed that the CETV had been reduced. On 20 August 2015, Capita received the completed discharge forms from Royal London and Mr E decided to proceed based on the reduced figure of £57,078.84. The transfer was completed in September 2015.
10. Mr E then complained to Capita and the Trustees. He requested the original CETV of £73,765.06 to be reinstated or a compensation payment of £16,686.22 which is the difference between the two CETVs. Capita and the Trustees did not uphold the complaint. In summary, they said:
  - Mr E was reminded that the original CETV was going to expire but still did not return the required forms within the three month guaranteed period.
  - Mr E decided to transfer his benefits in full knowledge that the CETV had been reduced.
  - The Trustees did not have a general disclosure requirement to notify all members about the reduction in CETV. But the members who requested CETVs on or after 1 April 2015 were told about the reduction when the transfer pack was issued.
11. Mr E did not agree with the responses from Capita and the Trustees. He therefore referred his complaint to us for an independent review.

## **Adjudicator's Opinion**

12. Mr N's complaint was considered by one of our Adjudicators. He did not uphold the complaint and his findings are summarised below:
  - There is no evidence to say that Capita or the Trustees were at fault for the transfer being delayed beyond the CETV guaranteed date of 25 June 2015.
  - It is not Capita's responsibility to ensure that the transfer forms are signed and returned in a timely manner. A copy of the March CETV was sent to Mr E's IFA in April 2015. At that point there was still sufficient time for Mr E to take advice about the transfer and to return the forms within the guaranteed period.
  - However, Capita did not receive the completed forms until July 2015. Therefore, the CETV was recalculated using the new basis that was applicable at the time and Mr E decided to proceed with the lower amount.

- It is not unreasonable to say that Mr E's IFA should have understood the timescale involved and acted accordingly during the transfer process.
  - At the time the changes took effect from 1 April 2015, Capita did not have to inform Mr E or his IFA about the reduction because he had already been given a CETV that was guaranteed and valid until 25 June 2015.
13. Capita and the Trustees accepted the Adjudicator's Opinion and did not make any further comments.
14. Mr E did not agree with the Adjudicator's findings and the complaint was passed to me to consider. Mr E provided his 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 Mr E for completeness.

### **Ombudsman's decision**

15. Mr E has explained that his complaint is not simply about missing the guaranteed date for returning the transfer forms but more fundamentally is about whether the Trustees can suddenly make such a significant reduction to the CETV. He questions how this can be possible under the set methodology that applies to all schemes and challenges the timing of the change which coincided with the introduction of the new pension freedoms.
16. The Transfer Value Regulations 1996 require the cash equivalent to be calculated on an actuarial basis reflecting the amount which is required to make provision within the scheme for a member's accrued benefits, options and discretionary benefits. The trustees must determine the extent of any options the member has which would increase the value of his benefits under the scheme and any adjustments they decide to make to reflect the proportion of members likely to exercise those options.
17. The Trustees are legally required to monitor and review the appropriateness of the assumptions and actuarial factors used in the calculation of transfer values. This is not limited to just the interest rates, age and life expectancy factors. For example, another consideration could be the possibility of an increase in transfer value requests due to changes in legislation, where it is thought that the calculation of transfer values on the existing basis would mean members would be paid transfer values that are too high and detrimental to members who remain in the Scheme.
18. I acknowledge that the CETV issued in July 2015 was significantly lower than the figure provided in the March 2015 correspondence. However, the Trustees have a duty to take into account the financial interests of all Scheme members, including members who continue to remain in the Scheme, provided that it is in accordance with the Scheme's trust deed and rules.
19. Mr E was under no obligation to accept the reduced transfer value and he decided to proceed with the transfer in the knowledge that he was getting a lower amount.

**PO-13558**

20. Ultimately, it is a matter for the Trustees to decide, based on their actuary's advice and recommendation, how the Scheme transfer values should be calculated. The actuarial profession is regulated by the Institute and Faculty of Actuaries. It is not within my remit to direct the Trustees on the appropriateness of actuarial factors and assumptions that should be used to calculate transfer values.
21. Therefore, I do not uphold Mr E's complaint.

**Karen Johnston**

Deputy Pensions Ombudsman  
25 November 2016