

## Ombudsman's Determination

Applicant	Dr H
Scheme	Universal Music Group Pension Scheme ( <b>the Scheme</b> )
Respondent	The Trustee of the Scheme ( <b>the Trustee</b> )

### Outcome

1. I do not uphold Dr H's complaint and no further action is required by the Trustee.

### Complaint summary

2. Dr H has complained about the reduction in his cash equivalent transfer value (**CETV**) from the quotation provided on 4 May 2017 and the subsequent CETV quotation issued on 4 April 2018.
3. Dr H has also complained that his benefits are now provided by Aviva and the reduction in CETV shows that Aviva cannot manage the Scheme correctly. Furthermore, he said that he should have been made aware that his benefits were transferring over to Aviva. He contends that if he had been told Aviva would be responsible for his benefits, he would have transferred.

### Background information, including submissions from the parties

4. The Scheme's administrator is JLT Benefit Solutions Limited (**JLT**).
5. On 4 May 2017, the Trustee wrote to Dr H and provided an enhanced CETV quotation. This confirmed that his standard CETV was £439,955 and offered an enhancement of £21,998. The total CETV offered was £461,953, including Dr H's Additional Voluntary Contributions (**AVC's**). This was available until 28 July 2017. The letter said that Dr H's employer would cover the cost of the nominated independent financial advisor (**IFA**). The booklet that accompanied the offer said that the employer was offering the enhancement in an attempt to reduce the risks associated with funding the Scheme.

6. In September 2017, the Trustee commenced discussions regarding the purchase of a bulk annuity policy.
7. In December 2017, the Trustee purchased a bulk annuity policy with Aviva Life & Pensions UK Limited (**Aviva**). It did so in order to ensure it could meet its defined benefit liabilities.
8. On 4 April 2018, JLT wrote to Dr H and provided him with another CETV quotation. It confirmed that the CETV for his defined benefit was £308,221.00. The CETV for his AVC's was £52,502.28.
9. Following receipt of the quotation, Dr H queried the drop in the CETV with JLT.
10. On 1 May 2018, Dr H wrote to JLT chasing a response.
11. An exchange of emails followed but no further information was supplied.
12. On 10 May 2018, JLT responded and explained its position:-

“As you are aware, following the decision by the Scheme Trustee to appoint Aviva for buy-in purposes, I am afraid that JLT are not involved in the calculation of your benefits and must rely on the Aviva team for this information...

...Your AVCs are not held by Aviva, they are held in the Defined Contribution (DC) part of the Scheme. They are shown separately on the Transfer Value Statement sent recently.”
13. A series of emails followed, JLT continued to wait for additional information from Aviva.
14. In June 2018, the Trustee provided a summary funding statement. Dr H said that he did not receive this. The statement related to the Scheme's position on 5 April 2017. On this date, the Scheme was underfunded and 93% of liabilities were covered by assets. However, the purchase of the bulk annuity policy with Aviva secured the Scheme's defined benefits liability.
15. On 3 July 2018, Dr H escalated his complaint to Stage 1 of the Trustee's Internal Dispute Resolution Procedure (**IDRP**). He said that he had suffered a financial loss of approximately £130,000.
16. On 24 July 2018, the Trustee wrote to Dr H. It apologised for the time it had taken to respond to his concerns. It explained the differences between his two CETV quotations, saying that the purchase of a bulk annuity policy represented a change in the Scheme's investment strategy. As this was a key consideration when setting CETVs, it was necessary for the Trustee to carry out a review of its calculation process. The Trustee also said that the change in transfer value basis related to a change in the assumptions used when considering the marital status of the member requesting a CETV. The Trustee also said that a decrease in UK life expectancy would have impacted the CETV offered.

17. The Trustee explained that transfer values were based on market conditions. It said that transfer values change over time regardless of whether changes are made to the underlying basis. In conclusion, it clarified that although there had been a drop in the CETV, there had been no change in the pension benefits Dr H was entitled to under the Scheme.
18. On 21 August 2018, the Trustee issued its Stage 1 decision. It conceded that it had been slow to provide an explanation about the reduction in the CETVs quoted. However, it said that it agreed with its earlier letter of 24 July 2018, that the most recent CETV quotation was correct.
19. On 24 October 2018, the Trustee issued its Stage 2 IDR response. It reiterated the reasons why it made changes to the transfer value basis, it also said that the assumptions it relied on were based on the advice of the Scheme Actuary. It emphasised that that it was responsible for managing the Scheme's investments in order to ensure that there is enough money to pay members' benefits when they are due, not to ensure that the CETVs remain constant. It confirmed that the investment in the bulk annuity policy was actioned to ensure that all members' benefits would be paid.

## **Adjudicator's Opinion**

20. Dr H's complaint was considered by one of our Adjudicators who concluded that no further action was required by the Trustee. The Adjudicator's findings are summarised below:-
  - A CETV represents the expected cost of providing the member's benefits within the Scheme. In the case of defined benefits, the CETV is a value determined by actuarial principles, which requires assumptions to be made about the future course of events affecting the Scheme and the member's benefits. CETVs are also subject to external market conditions so can fluctuate considerably dependent on the date of calculation.
  - The Trustee's purchase of a bulk annuity policy marked a significant change in the Scheme's investment strategy. Therefore, the Trustee, following advice of the Scheme Actuary, reviewed its transfer basis. The changes involved using updated life expectancy assumptions and the actual marital status of members, as opposed to a proportion basis. The Adjudicator felt that the Trustee, in reviewing the transfer basis, acted appropriately.
  - The Adjudicator did not agree that Dr H had suffered financial loss. Dr H was only entitled to the correct level of benefits under the Scheme Rules. The difference in the CETV quotations did not effect the level of benefits he was entitled to.
  - The Adjudicator did not accept that Dr H should have been notified of the change in transfer value basis. The Trustee has a fiduciary duty to manage the Scheme's

investments to ensure it retains sufficient assets so that it is able to pay the members' retirement benefits.

- The Adjudicator was not persuaded that the Trustee owed a responsibility to notify members of how it was going to invest Scheme assets. Whilst Dr H had his own reasons why he did not wish to be associated with Aviva, the Trustee has to act on behalf of the beneficiaries as a whole.

21. Dr H did not accept the Adjudicator's Opinion and the complaint was passed to me to determine.

22. Dr H provided his further comments which do not change the outcome. I agree with the Adjudicator's Opinion and I will therefore only respond to the key points made by Dr H for completeness.

23. Dr H has argued that:-

- When he was offered the CETV quotation on 4 May 2017, he was not told of the Trustee's intention to purchase a bulk annuity policy with Aviva. Had he been told this, he would have changed his approach.
- The Trustee should have disclosed the change of transfer value basis to members prior to issuing its offer. Without this information, Dr H's IFA was unable to give full advice.

### **Ombudsman's decision**

24. The Trustee has a fiduciary duty to manage the Scheme's investments to secure sufficient assets for the payment of members' retirement benefits. In order to perform this duty, it must ensure that it only pays CETVs that reflect the member's benefits within the scheme. Paying CETVs above their true value would erode the assets available to pay retirement benefits.

25. In purchasing a bulk annuity policy, the Trustee took steps to safeguard its liabilities. Dr H has argued that he should have been told of the Trustee's intention to take out such a policy when he was provided with the enhanced CETV quotation. I disagree. The Trustee only began pursuing a bulk annuity policy in September 2017, long after the enhanced CETV was offered. So, it would not have been able to provide notice of this to members until after that date. Regardless, it is not up to the Trustee to notify all members of its investment plans. Notwithstanding the cost of the associated administration, it would be impractical to expect the Trustee to seek a mandate from members each time it changed investment strategy.

26. With the Trustee's new investment strategy, it acted correctly in reviewing the transfer value basis. The Trustee followed proper process and took advice from the Scheme Actuary before reviewing the way in which it calculated CETVs. Dr H has complained that he should have been notified of the changes to the transfer value basis prior to their inception. As the Adjudicator has explained there is no duty on the part of the

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Trustee to notify members that it is contemplating reviewing the CETV factors. All defined benefit schemes will undertake such a review from time to time.

27. For these reasons, I do not uphold the complaint.

**Anthony Arter**

Pensions Ombudsman  
10 September 2019