

Ombudsman's Determination

Applicant	Mrs N
Scheme	Lloyds Bank Pension Scheme No. 1 (the Scheme)
Respondents	Lloyds Banking Group Pensions Trustees Ltd (the Trustees) & Equiniti Ltd (Equiniti) - the former Scheme administrators

Outcome

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

Complaint summary

3. Mrs N's complaint concerning the Trustees and Equiniti is that the amount of the cash equivalent transfer value (**CETV**) is less than she had first been told and there have been delays in the implementation of her pension sharing order.

Background information, including submissions from the parties

4. Both Mrs N and her ex-husband, Mr N, have deferred benefits under the Scheme.
5. The Decree Absolute for Mr and Mrs N, issued by Brighton County Court (the **Court**), is dated 15 June 2012. The Consent Order is dated 22 June 2012. Item 2 in the Consent Order states that the pension sharing in favour of Mrs N under the Scheme is in accordance with the annex to the document.
6. The date on the Pension Sharing Annex (the **Order**) is handwritten. It is unclear whether the date is 11 June 2012 or 11 June 2013. However, given the date of the Decree Absolute and that the Consent Order refers to the Order, I believe that the date of the Order is more likely to be 11 June 2012.
7. Under the Order Mrs N receives 100% of Mr N's CETV from the Scheme. No monetary amount is specified.

8. It is unclear when Equiniti received the Order, as it was not date stamped on receipt. The Trustees initially said that it was received by Equiniti shortly before it wrote to Mr N in September 2013.
9. The Order states that the person responsible for the pension arrangement must discharge their liability within four months beginning from the later of: (a) the date on which the Order takes effect; or (b) the first day on which the person receives the Order, a copy of the Decree Absolute, the information specified in paragraphs A, B and C of the Order, and the payment of all outstanding charges.
10. In February 2013, Equiniti wrote to Mr N with details of his pension benefits for use in connection with the divorce proceedings. It enclosed a statement which showed his CETV to be £154,660.98. In the notes at the bottom of the statement it says:
 - the CETV was not guaranteed and was for illustration purposes only;
 - if a pension sharing order is made by the Court, the CETV will be recalculated and may be different to the original quote; and
 - on receipt of the final court order, Equiniti would contact both divorcing parties with details of any outstanding information that was required before the implementation period could begin.
11. Also attached to Equiniti's letter of February 2013 to Mr N, were explanatory notes headed 'NOTES ON YOUR PENSION AND DIVORCE' (the **Notes**). Under the section headed 'Receipt of a pension sharing order' it states:

"On receipt of a pension sharing order, we will issue an acknowledgement which will set out our requirements to comply with the order including details of any charges that are due and the information still outstanding to enable the order to be implemented. The information that we will require is:

 - A copy of the pension sharing order (or qualifying agreement).
 - Evidence of the divorce (i.e. a copy of the decree absolute) to which the pension sharing order relates.
 - For the ex-spouse/civil partner: full name, date of birth, national insurance number and contact address.
 - Full payment of charges."
12. As from the start of March 2013, new conversion factors for calculating transfer values were implemented for the Scheme.
13. On 9 September 2013, Equiniti wrote to Mrs N stating that there was a specified period of four months within which it must give effect to the Order, known as the implementation period. The period begins when it receives payment of all charges

due and all relevant information needed to implement the Order. It said that its administration cost for implementing the Order was £1,200 plus VAT, and she was required to pay 50% of the total charge. It asked her to forward a cheque for £720.00 (i.e. £600 plus VAT). It added that it would let her know when it received all the relevant information and would confirm that the implementation period had started by issuing a 'Notice of Implementation'.

14. On 18 September 2013, Equiniti wrote to Mrs N informing her that it had received the Order and that she had acquired a pension credit in the Scheme. It enclosed a pack containing a transfer value statement which showed the CETV to be £113,623.18. It informed her that she needed to forward the pack to her chosen pension provider; complete parts 2, 3(A), 4 and 5 of the Consent Form; and for her chosen pension provider to complete the appropriate Receiving Scheme Warranty.
15. In October 2013, Equiniti wrote to Mrs N informing her that it was not possible to add the pension credit to her own pension in the Scheme because she was a deferred, and not an active, member. It also enclosed an extract from the National Association of Pension Funds website covering pension sharing charges, pointing out that its charges were less than the recommended amount.
16. In December 2013, Mrs N's independent financial adviser (**IFA**) sent Equiniti a copy of the Order. Equiniti responded saying that it already had a copy of this document and that it had written to Mrs N on 18 September 2013 setting out its requirements.
17. In June 2014, in an email to the IFA, Equiniti confirmed receipt of the Decree Absolute for Mr and Mrs N and said that it required the documents requested in its letter of 18 September 2013, i.e. the signed Warranty together with the bank details for the organisation where the transfer is to be made, and the contact name and address of that organisation.
18. In an email dated 14 June 2014 to Mrs N, the IFA said that they were surprised by the figure of £154,660.98 quoted in February 2013, because the figure quoted in February 2011 was £114,934.51. They added that it was worth pushing for the higher amount.
19. In July 2014, the IFA emailed Equiniti saying that in December 2013 they were sent a request by Equiniti to supply the Decree Absolute and the Order. However, since that time they had been trying to inform Equiniti that it already had this information. They have now received a letter from Equiniti stating that it will be necessary to recalculate the CETV on receipt of the final outstanding documents.
20. In another email to Equiniti in July 2014, the IFA said that they acknowledge that from March 2013 the Scheme actuary provided new factors and calculations to perform the required transfer valuation. However, should the new CETV be lower they will be looking for the higher figure to be paid. They attached the CETV figure quoted in February 2013.

21. In an email dated 3 July 2014 to the IFA, Mrs N said that she would not sign anything until the CETV is near the figure of £154,000 sent to Mr N. She said that if this was not the case, she would go back to Court.
22. In July 2014, Equiniti sent Mrs N a revised CETV quote. The revised figure was £124,603.12.
23. In August 2014, Equiniti wrote to Mrs N regarding her dissatisfaction with its service. It said that it had reviewed the matter and noted that there had been a delay in transferring her ex-husband's pension to her. It added:

"I understand that we received the Pension Sharing Annex, Decree Absolute and Court Order on 27 February 2013. I note that you emailed us on 31 August 2013 chasing the progress of the Pension Sharing Order; our response on 9 September 2013 confirmed that we were still awaiting the implementation fee. A letter was also issued on the same date to Mr N's new address to advise that we have still not received the required fee.

While the delays in effecting this transfer have largely derived from the Independent Financial Advisor, following our request for further information we could have been more proactive in ensuring the transfer is completed.

At present, we are still awaiting the Pension Sharing Consent form and the Transfer Warranty as we are unaware where you wish for the pension to be transferred to, so ask that you return this to us at your earliest opportunity."

24. Mrs N made a complaint which was dealt with under the Scheme's internal dispute resolution procedures (**IDRP**). The second stage IDRP decision given by the Trustees in March 2015, was:
 - the quotation in February 2013 had clearly stated that the figure of £154,660.98 was not guaranteed;
 - given that the new transfer conversion factors were implemented from the start of March 2013, then however quickly and proactively she had responded, or Equiniti had corresponded with her to implement the pension share, she would not have had the right to obtain the pension share on the basis of the old conversion factors;
 - it was accepted that there were delays in getting the transfer value paid out efficiently and a lack of proactivity during the process by Equiniti, and in recognition of this an offer of an ex gratia payment of £250 was made;
 - the calculation had been updated and the revised figure as at 6 February 2015 was £114,980.47;

- the revised figure could be guaranteed provided Mrs N completed the necessary transfer paperwork by the end of April 2015 - if the value is higher, when recalculated at the date of actual transfer, she will receive the higher figure; and
- she will be allowed an internal transfer to the Scheme, but this would take the form of a one-off defined contribution fund held for her in the Scheme and will be invested on her behalf until her retirement.

25. As Mrs N was unable to resolve the matter she brought her complaint to us.

26. Mrs N's comments in response to our enquiries are set out below.

- When she received the letter from Equiniti in October 2013, informing her that it was not possible to add the pension credit to her own pension under the Scheme and that she must transfer to another approved pension arrangement, she sought the advice of an IFA to whom she gave the transfer pack. However, the IFA then contacted Equiniti who told them that the Order had not been received from the Court and therefore no documents could be completed.
- She was not happy with the amount of the CETV offered, as a considerable amount of time had passed since her divorce and the quote is significantly less than the figure originally given. Therefore, no transfer has been made because she disputes the amount.

27. The Trustees' comments in response to our enquiries are set out below.

- It is difficult to say with any certainty when the Order was received. They changed administrators to the Scheme in October 2016 and so it is not now possible to question Equiniti on what happened.
- In May 2015, they asked Equiniti the precise date when it had received the Order. Equiniti's believed the Order was received early in September 2013. However, it could not be established with certainty because it was not date stamped and scanned on receipt.
- Equiniti issued letters to Mr and Mrs N in September 2013, at which time although it had received the Order, the administration fees remained outstanding.
- It is entirely possible that the Order had been received by Equiniti and was filed on Mr N's file and not cross referenced to Mrs N's file. However, this would mean that the Order was made without the benefit of the transfer value which was not issued until 27 February 2013, which seems somewhat unusual.
- It is likely that when Equiniti wrote to Mrs N in August 2014 it had simply failed to identify and express accurately what had been received and when, but focussed more on the outstanding matters which continued to delay settlement of this matter.

- None of this alters the fact that Mrs N is seeking a CETV amount quoted in February 2013, which was clearly noted as not being guaranteed; neither does it alter the fact that, despite Equiniti commencing the process to obtain the documentation and fees necessary to implement the Order on 18 September 2013, and being in contact with her quite regularly thereafter, Mrs N did not complete the paperwork required to give effect to the transfer.

Adjudicator's Opinion

28. Mrs N's complaint was considered by one of our Adjudicators who concluded that no further action was required by the Trustees or Equiniti. The Adjudicator's findings are summarised briefly below:

- in February 2013 the CETV quote of £154,660.98 was provided by Equiniti to Mr N, and not Mrs N, clearly stating that the figure was not guaranteed and would be recalculated once the Order was issued and may be different;
- it is unreasonable for Mrs N to expect to receive a CETV of £154,660.98, which could not be recalculated until all the terms of the Order were met;
- the CETV quoted to Mrs N in September 2013 of £113,623.18, was lower than the February 2013 figure because new transfer value conversion factors, adopted in March 2013, were used to calculate it;
- on 18 September 2013, Equiniti confirmed to Mrs N that they had received the Order and enclosed a transfer pack which they informed her needed to be sent to her chosen provider, who had to provide details of the appropriate Receiving Scheme, and for her to complete parts 2, 3(A), 4 and 5 of the Consent Form in order to complete the transfer – neither Mrs N nor her IFA have returned the completed documents, or paid the outstanding charges; and
- the Trustees have offered an ex-gratia payment of £250, which the Adjudicator believed was adequate compensation for the non-financial injustice Mrs N suffered as a result of Equiniti's lack of proactivity during the process.

29. Mrs N did not accept the Adjudicator's Opinion and the complaint was passed to me to consider. Mrs N has provided 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 N for completeness.

Ombudsman's decision

30. Mrs N's comments in response to the Adjudicator's Opinion, is set out below.

- The Court confirmed that all documents, including the Order, were sent. In addition, she says that the Court can confirm that she phoned on 23 February

2013, to ask for the paperwork to be resent as Equiniti had said that the documentation could not be found.

- A letter from Equiniti in August 2014, stated that it had received the Order, the Decree Absolute and the Consent Order on 27 February 2013, but these were the documents that were resent in February 2013; eight months after the Court had sent the original documents.
- No one has explained the reason for the delay between 27 February 2013, which is the date Equiniti say, in its August 2014 letter, that it received the Order, and 18 September 2013, when it subsequently confirmed that it had received the Order.
- If Trustees/Equiniti had not lost the original documents sent by the Court, they would have dealt with the transfer of her benefits within four months of receiving the original documents, which would have meant that the new transfer value conversion factors would not have been applied.
- She questions why there is such a big difference between the CETV of £154,660.98 quoted to her ex-husband in February 2013 and the figure of £113,623.18 sent to her in September 2013. The difference is approximately £41,000 and because of this she feels justified to dispute the CETV quoted to her.

The delay in implementing the Order

31. It is unclear exactly when Equiniti received the Order. Equiniti, in its letter of 19 August 2014 to Mrs N, stated that it received the document, together with the Decree Absolute and Consent Order, on 27 February 2013. After initially saying that Equiniti had received the Order in September 2013, the Trustees have now said that it is difficult to determine the precise date when it was received. The Trustees also think it is entirely possible that the Order was received by Equiniti on the earlier date, but it was placed with Mr N's papers and not cross referenced to Mrs N's file. Therefore, on the balance of probability, I consider that the Order was received by Equiniti on 27 February 2013.
32. Mrs N claims that the Court had initially sent Equiniti the Order, the Decree Absolute and the Consent Order, eight months prior to February 2013, i.e. in June 2012. She says that had Equiniti not lost the original documents, the transfer could have been dealt with before the new conversion factors came into effect. However, there is no evidence to show that the Court had sent the Order to Equiniti before February 2013.
33. On the basis that Equiniti had received the Order on 27 February 2013, I would agree that there was an unnecessary delay between February and September 2013, on the part of Equiniti in contacting Mrs N. However, I do not believe that this delay is the main reason for failing to implement the Order. Under the Order, Equiniti must discharge its liability within four months beginning from the later of: the date the Order took effect; or the date the Order, the Decree Absolute, the information specified in paragraphs A, B and C of the Order and the payment of all outstanding charges. As

Mrs N has not paid the charges the Order cannot be implemented. While Equiniti is responsible for the initial delay, Mrs N is responsible for the ongoing delay in implementing the Order.

The CETV is less than the figure Mrs N had first been told

34. The CETV of £154,660.98 was quoted to Mr N, and not Mrs N, in February 2013. The statement showing the CETV clearly stated that the figure was not guaranteed and would be recalculated if a pension sharing order is made by the Court. By the time Equiniti received the Order on 27 February 2013, as the conversion factors changed two days later on 1 March 2013, the CETV would have been recalculated on the new conversion factors. Therefore, Mrs N is not entitled to a CETV of £154,660.98.
35. The CETV of £154,660.98, quoted in February 2013, is considerably higher (by around 35%) than the figures quoted either before or afterwards. In February 2011 the figure was £114,934.51 and in September 2013 £113,623.18. Therefore, it is questionable whether the figure of £154,660.98 was in fact correct. However, as this figure was not guaranteed I do not need to consider the matter further.
36. For the reasons given above, I do not uphold Mrs N's complaint.

Anthony Arter

Pensions Ombudsman
25 January 2017