

STATES OF JERSEY



RESPONSE TO STATES OF JERSEY COMPLAINTS BOARD: COMPLAINT BY MR S. NEWMAN AGAINST THE TREASURY AND EXCHEQUER DEPARTMENT REGARDING THE VALUATION AND CALCULATION OF PENSION ENTITLEMENTS

**Presented to the States on 8th June 2021
by the Minister for Treasury and Resources**

STATES GREFFE

REPORT

The Public Employees Pension Team (**PEPT**), which is a function of the Treasury & Exchequer Department as administrator for the Public Employees Pension Fund (**PEPF**), is required to administer the PEPF in accordance with the PEPF's governing law and regulations on behalf of the PEPF Committee of Management (the **Committee**) as the governing body for the PEPF. The Committee is made up of 6 employer and 6 member representatives with an Independent Chair.

In August 2018, the Chair of the Committee set up a Working Group comprising of the Chair, an employer and a member representative to investigate and make recommendations to the full Committee in response to the receipt of a small number of complaints regarding transfer values, including Mr Newman's. Legal advice was obtained by the Committee in relation to the complaints. The Working Group reported its findings to the Committee meeting on 27th September 2018 where employer and member representatives were in attendance. The Committee agreed with the recommendation of the Working Group which (in summary) was that transfer value quotations would be provided on the pre-1 May 2018 terms for any member who had made contact with the PEPT to request a transfer value quotation before 1 May 2018. Mr Newman did not fall within this cohort of members.

Mr Newman's complaint was dealt with through the PEPF's four-stage Complaint Procedure and at the final stage the complaint was not upheld by the Committee based on the evidence gathered during the investigation of the complaint.

The Treasury & Exchequer Department provided all available evidence requested by the Committee relating to Mr Newman's complaint to inform their decision at Stages 3 and 4 of the Complaints Procedure. The evidence provided to the Committee by the Treasury & Exchequer department included (i) records of all calls made to the PEPT in the relevant timeframe which demonstrated that no call was made in respect of Mr Newman.; (ii) all correspondence received from Mr Newman before and after the Stage 4 complaint decision which was provided to the Committee; and (iii) records of all calls made by Mr Newman's employer (who advised that he made the call on Mr Newman's behalf) as requested independently by the Committee as part of their investigation. These call records also showed no evidence of a call to the PEPT made by the employer in the relevant timeframe, indeed the evidence offered proved that no call had been made. The Committee undertook a thorough and in-depth review based on all of the evidence provided, and took legal advice, and, based on all of the factors, made the decision not to uphold Mr Newman's complaint.

Following the publication of the Complaints Board Report by the Privileges and Procedures Committee in December 2020 (which was passed to the Chair of the Committee in the first instance for consideration) the Committee established a further Working Group to consider the Report findings. The Working Group, comprising of the Chair and three employer and member representatives, concluded that no new or material evidence was brought to the Committee as part of the Complaints Panel Hearing or the Report. The Committee met on 18th February 2021 and agreed that, given there was no new or material evidence which would cause the Committee to alter its original decision in respect of the Stage 4 complaint, the original decision would stand.

The Committee has a duty to ensure the PEPF is administered fairly and consistently for all of its membership and its duties are owed to the membership. The Committee took into account various factors in coming to its decision at Stage 4 (and in further considering the Complaint Panel's Report) including the point that it would be unfair to the membership as a whole to pay additional benefits in respect of Mr Newman in circumstances where there is no evidence, other than verbal assurances, to support the claim that a transfer value request or enquiry was made to the PEPT on Mr Newman's behalf in the relevant timeframe.

As outlined above, as administrator for the PEPF, Treasury & Exchequer is required to administer benefits paid from the PEPF in accordance with the PEPF's governing law and regulations on behalf of the Committee. Whilst I appreciate the time and effort that has been spent in hearing the complaint, the Committee, and therefore Treasury & Exchequer as administrator, is unable to make payment of a higher transfer value in respect of Mr Newman. Any such payment would constitute a Special Payment under the Public Finances Manual. The Treasurer of the States is not satisfied that there is a proper legal basis to make such a payment in these circumstances.

However, I have noted concerns regarding the independent oversight of the PEPF Complaints Procedure and Treasury & Exchequer is reviewing the PEPF Complaints Procedure to ensure that is consistent with modern best practice for pension complaints. Treasury & Exchequer are liaising with Financial Services and the PEPF Committee about future proposals for the creation of an independent final stage to the PEPF Complaints Procedure through the Channel Islands Financial Ombudsman, who is independent of Government.