

Ombudsman's Determination

Applicant	Mr H
Scheme	The NatWest Group Pension Fund (the Fund)
Respondent	NatWest Pension Trustee Limited (the Trustee)

Outcome

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

Complaint summary

2. Mr H has complained that:-
 - He has suffered a financial loss as a result of being contracted-out of the State Earnings Related Pension Scheme (**SERPS**).
 - Since he reached State Pension Age (**SPA**) in 2018, he has not received the additional contracted-out pension equivalent (**COPE**)¹ that he thought he would be entitled to.
 - Since SPA, his increases have reduced as a result of the Fund being contracted-out of SERPS.
 - The Trustee should have placed the rebated National Insurance (**NI**) Contributions into a defined contributions scheme to provide a COPE benefit.

Background information, including submissions from the parties

3. On 29 July 1974, Mr H commenced employment with National Westminster Bank (**NatWest**) and became a member of the Fund.
4. From 6 April 1978, NatWest elected to contract out of SERPS. As a result, it had to provide members in contracted-out employment with a Guaranteed Minimum Pension (**GMP**)². The decision affected all active members of the Fund.

¹ COPE is an amount that is equivalent to the additional State Pension a member would have received had they not been contracted-out.

² The GMP is the minimum amount of pension that a pension scheme must pay its members for the period they were contracted-out of SERPS.

5. On 30 June 1997, Mr H left NatWest on the grounds of redundancy and became a deferred member of the Fund.
6. On 14 September 2006, Mr H contacted NatWest for a retirement quotation, as he was assessing his options due to a change in his financial circumstances.
7. In response, NatWest sent him a retirement quotation based on a retirement date of 31 October 2006. It provided details of Mr H's normal pension date and the retirement benefit options. It also explained that:-
 - Mr H's pension would increase each April, but the increase rate would be different for each element of his accrued benefits depending on when the benefits were accrued. He would receive a letter each year that would provide a full breakdown of the increases.
 - Mr H was able to take early retirement from age 50, but his pension would be actuarially reduced accordingly.
8. Mr H opted to take early retirement and his pension commenced from 1 November 2006.
9. In 2015, the Department for Work and Pensions (**DWP**) wrote to Mr H about his contracted-out membership in the Fund. It explained that a COPE was payable when he reached SPA, in 2018, and would be approximately £76.47. Mr H said that the letter stated that the COPE would be "paid as a top up" by the "pension provider".
10. On 10 October 2018, Willis Towers Watson (**WTW**), the Fund's administrator, wrote to Mr H and explained that his pension would be adjusted because he had reached SPA. It said:-
 - As he had now reached GMP age, it was legally required to separate the GMP element of his pension from the excess pension he was receiving. This was to ensure that each element increased by the correct rate, as shown below:

Pension element	Annual amount	Increase rate
GMP Pre 6 April 1988	£3,209.44	Non-increasing
GMP Post 5 April 1988	£3,190.72	In line with price inflation up to 3% a year
Excess Pension	£4,891.72	In line with Fund Rules
Total	£11,291.88	

11. In January 2019, Mr H raised a complaint under stage one of the Fund's Internal Dispute Resolution Procedure (**IDRP**). He said:-

- He had lost out by being contracted out of SERPS.
- It was unclear how the COPE was included in his pension.
- His annual increases would have been higher had it not been for the GMP.
- The Fund had “benefited” from his National Insurance (**NI**) contributions and refused to return them to him.
- He believed that as the Fund was a defined benefit arrangement, the rebated NI contributions should have been placed into a defined contribution scheme to provide a COPE benefit.

12. The Trustee provided its stage one IDRPs response and said:-

- The COPE was the amount by which his state pension was reduced to account for the period of contracted-out service.
- The GMP that he was entitled to, when he reached age 65, was much higher than the COPE amount based on how it was revalued between his last day of service and SPA.
- Mr H’s pension could not fall below the GMP level and the GMP was not paid in addition to this pension from the Fund. As it stood, when Mr H reached age 65 his GMP was £6,400.16 a year, but his pension from the Fund was £11,291.88.
- DWP had informed Mr H that the COPE would be included in his pension and he should contact DWP with any queries about his GMP.

13. On 6 March 2019, Mr H asked for his complaint to be considered under stage two of the Fund’s IDRPs. In summary, he said:-

- He had “lost out” on around £4,000 a year as a result of being contracted-out of SERPS.
- He wanted to know what had happened to the NI contributions that were rebated to NatWest.

14. In April 2019, separate to the ongoing IDRPs complaint, WTW wrote to Mr H about his annual increase and said:-

- The Trustee would increase his pension by £198.84, to £11,490.72, effective from 1 April 2019.
- The GMP Post 5 April 1988 and excess pension would increase by 2.40% and 2.50% respectively.

15. On 25 April 2019, the Trustee provided its stage two IDRPs response and said:-

- It could not respond to Mr H’s complaint about NatWest’s decision to contract-out of SERPS and the effect that this had on his overall pension.

- Mr H's GMP was the pension payable for the period he was contracted-out of SERPS. It was not an additional amount that would be paid to him.
- It was NatWest's decision to contract-out of SERPS. But from April 1988, Mr H could have opted out of active membership of the Fund if he had wanted to remain in SERPS.
- Mr H and NatWest would have benefited from lower NI contributions, but the Trustee could not comment on how the savings were used.

16. On 26 April 2019, DWP confirmed that Mr H's COPE amount was £77.71 when he reached SPA.

Mr H's position

17. Mr H said:-

- He had suffered a financial loss as a result of being contracted-out of SERPS.
- The Trustee had not specified, and he was unable to establish, how the COPE had been included in his pension.
- The Trustee had not explained why his increases were lower as a result of contracting-out and reaching age 65.
- The Trustee should have placed the rebated NI contributions into a defined contribution scheme to provide a COPE benefit.

The Trustee's position

18. The Trustee said:-

- Mr H was receiving the correct pension from the Fund, calculated in line with the Fund's Trust Deed and Rules.
- Mr H had not provided evidence to show that the Trustee informed him that he would receive an additional COPE payment as a "top-up".
- The rates at which Mr H's GMP increased compared to the excess pension varied. But the increases were calculated in accordance with the Fund Rules and legislative requirements and Mr H was made aware of the rates.
- Mr H had not suffered a financial loss as a result of being contracted-out of SERPS and he had not considered the benefit of the reduced NI contributions he had paid while he was a member of the Fund.
- Mr H had provided details of the pension he would have received from the Fund if he had not been contracted-out of SERPS. But the only way Mr H could have remained in SERPS was to leave active membership of the Fund, and his pension from the Fund would, in fact, have been lower.

- NatWest and Mr H would have benefitted from the “NI contribution rebate”, not the Fund. Furthermore, there was no requirement for the Trustee to place the “NI contribution rebate” into a defined contribution arrangement.

Adjudicator’s Opinion

19. Mr 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:-
- Mr H had accrued pension benefits in the Fund and benefitted from paying lower NI contributions as a result of being contracted-out. While he received a lower State Pension, overall, his GMP exceeded the COPE amount. So, he was not in a worse financial position than he would have been had the Fund not been contracted-out of SERPS.
 - The COPE amount had been deducted from the State Pension that Mr H had received from SPA and was not an additional amount that he would receive from the Fund as a “top up”.
 - There was insufficient evidence to show that the Trustee misled Mr H into believing that he would receive an additional amount, so it could not be held accountable for his misunderstanding.
 - Before he reached SPA, Mr H had received increases on all of his accrued pension benefits at the same rate. However, when he reached SPA, WTW was legally required to separate his GMP from his excess pension and there was no longer a requirement to apply increases to the pre 6 April 1988 GMP. While the increases were lower, they were in line with those set out in the Fund Rules and relevant legislation.
 - There was no requirement for the Trustee to place any rebated NI contributions into a defined contributions scheme to provide a COPE benefit.
20. Mr H did not accept the Adjudicator’s Opinion and the complaint was passed to me to consider. Mr H provided his further comments which do not change the outcome. In summary, he said:-
- He still believes that he has lost out on pension benefits as a result of being contracted-out of SERPS.
 - His benefits from the Fund were calculated using his service and final salary. So, had he remained in SERPS, his benefit would have been calculated the same way.
 - The GMP:
 - guaranteed part of his pension which was already guaranteed;

- meant that he was not entitled to a COPE amount; and
- ensured he received lower increases on his pension once in payment.
- He has lost out on £4,040.92 of annual COPE payments plus the associated annual pension increases.

21. I note the additional points raised by Mr H but I agree with the Adjudicator's Opinion.

Ombudsman's decision

22. Mr H believes that he has suffered a financial loss as a result of being contracted-out of SERPS. However, Mr H's pension from the Fund far exceeds the benefit he would have received had he remained contracted-in to SERPS. If Mr H wanted to remain in SERPS, he could have left active Fund membership from 1988, but this would have meant losing out on the contributions that NatWest paid into the Fund on his behalf. He would have also accrued a significantly smaller pension. Instead, Mr H remained an active member of the Fund until 1997, benefited from lower NI contributions and accrued Fund benefits during this time. It was not possible for Mr H to remain contracted-in to SERPS while he was an active member of the Fund. I do not consider that Mr H has suffered a financial loss because he is receiving the correct level of benefits to which he is entitled in accordance with the Trust Deed and Rules.
23. Mr H also argues that the GMP simply guaranteed part of his pension which was already guaranteed due to his employment and that, as a result, he has lost out on £4,040.92 annually in COPE payments plus the associated annual pension increases. The Fund was contracted out and this would have been taken into account in the calculation of Mr H's, and other members', pension benefits. The GMP is included in the benefits that Mr H accrued during his membership in the Fund and is not a separate, additional payment. A condition of contracting out of SERPS was that the GMP amount had to, at least, meet the COPE amount that would be deducted from his additional State Pension at SPA. In Mr H's case, the GMP exceeds the COPE amount. As the Adjudicator has explained, COPE is a deduction, rather than a top-up so I do not accept Mr H's claim that he has lost out on annual COPE payments and the associated increases.
24. Mr H further complains that the GMP element of his pension received lower increases once in payment. I accept that the increases Mr H receives on his GMP are lower than they were before he reached SPA. This is because when he reached SPA, there was no requirement for increases to be applied to the GMP accrued before 6 April 1988. I find that the Trustee has applied the correct level of increases in accordance with the Trust Deed and Rules. Mr H is receiving the correct pension to which he is entitled.
25. I do not uphold Mr H's complaint.

CAS-31456-R0N4

Anthony Arter

Pensions Ombudsman
10 August 2021