

## Ombudsman's Determination

Applicant	Mr I
Scheme	Stanplan F Final Earnings Plan also referred to as Group Final Salary Plan ( <b>the Plan</b> )
Respondent	Standard Life Assurance Limited ( <b>Standard Life</b> )

## Outcome

1. I do not uphold Mr I's complaint and no further action is required by Standard Life.

## Complaint summary

2. Mr I disagrees with Standard Life's assertion that as he was a member of the Plan for less than five years he does not qualify for a pension from his former employer, Graham Poulter Group (**GPG**).

## Background information, including submissions from the parties

3. Mr I was employed by GPG between 28 June 1974 and 15 May 1981. Mr I has said that GPG told him that he was a member of the non-contributory company pension scheme throughout his service.
4. In 1975, the Social Security Act 1973 (**SSA 73**), was introduced. Under the SSA 73, if a member of an occupational pension scheme left service before normal pension age, and had reached age 26, a scheme had to provide a deferred pension, but only if the member had completed a minimum of five years' qualifying service. Members with less than five years' qualifying service were eligible for a refund of the contributions that they had made into the scheme, if applicable, but not a deferred pension.
5. Mr I received no correspondence about the Plan when he left GPG.
6. In 2015, Mr I contacted the Pension Tracing Service (**PTS**) to obtain information about the Plan.
7. The PTS advised Mr I that he should write to Aegon Scottish Equitable (**Aegon**), who it believed was the current Plan Administrator. However, Aegon informed Mr I that it was not the Plan Administrator.

8. In early 2016, Mr I made a subject access request to Her Majesty's Revenue & Customs (**HMRC**) under the Data Protection Act 1988.
9. On 5 April 2016, HMRC provided Mr I with a record of his National Insurance (**NI**) contributions from 1975 onwards. It explained that it would send any records pre-dating 1975 at a later date, as the information was stored separately. The NI records showed that Mr I paid standard rate NI contributions during his service with GPG.
10. In the same month, Mr I contacted PTS again and it provided Standard Life's contact details.
11. On 3 May 2016, Mr I contacted Standard Life to find out what benefits he was entitled to from the Plan and provided:-
  - His dates of service with GPG.
  - An employment contract that was issued on 31 March 1977 which stated that employees were eligible for the company pension scheme after completing 12 months' service.
  - The NI record provided by HMRC.
  - His identification documentation.
12. On 1 September 2016, Mr I contacted Standard Life again with the same information that he provided in May 2016.
13. On 4 October 2016, Standard Life confirmed that Mr I was enrolled in the Plan for less than five years and the Plan was a non-contributory scheme. As such, he was not entitled to a refund of contributions or any pension benefits.
14. In response, Mr I contacted Standard Life to dispute its claim.
15. On 6 October 2016, Standard Life provided Mr I with the details it held about his Plan membership, which were:

Date the Plan Commenced	01/04/1974
Date the Plan Closed	31/03/1980
Date Mr I Joined the Plan	01/07/1977
Date Mr I Left the Plan	01/04/1979

16. On 14 March 2018, Mr I contacted Standard Life and asked for copies of letters it received from GPG informing Standard Life that:-
  - The Plan should be set up and closed.

- Mr I had joined and left the Plan.
17. Mr I also requested copies of the relevant documentation and all literature about the Plan.
  18. On 16 August 2018, Standard Life told Mr I that it had checked its archives but could not find any further information about the Plan, as it was not legally obliged to keep records for more than seven years.
  19. On 20 February 2019, Mr I asked Standard Life how he could escalate his concerns about his lost pension entitlement. Mr I also complained that Standard Life's letters were not signed by an individual.
  20. On 1 March 2019, Standard Life acknowledged Mr I's complaint and confirmed that it would investigate his concerns.
  21. On 2 April 2019, Standard Life issued its final response to Mr I's complaint and said that:-
    - It had searched its records thoroughly and did not hold any documents relating to the Plan.
    - Its electronic records confirmed that GPG received a refund of contributions when the Plan was closed in accordance with the SSA 73.
    - The letters were not signed by a member of staff because the templates did not allow for this. Mr I's concerns about this had been highlighted to the appropriate manager.
  22. In response, Mr I asked Standard Life how it could confirm that any contributions were refunded to GPG if it held no records for the Plan.
  23. On 10 April 2019, Standard Life, again, confirmed the dates that Mr I was a member of the Plan. It said that it held no records or documentation from the time that contributions would have been returned to GPG.
  24. Mr I remained dissatisfied with the response because:-
    - GPG informed him that he was a member of the Plan throughout his eligible service.
    - Standard Life was unable to provide him with evidence to show that GPG received a refund of the contributions made to the Plan on his behalf.
    - He had been relying on the pension from the Plan.
  25. As part of our investigation into Mr I's complaint, Standard Life provided evidence of Mr I's membership start date and two lists of GPG employees who were members of the Plan in 1980.

## **Adjudicator's Opinion**

26. Mr I's complaint was considered by one of our Adjudicators who concluded that no further action was required by Standard Life. The Adjudicator's findings are summarised below:-

- The NI records from HMRC supported Mr I's assertion that he was employed by GPG from 28 June 1974 until 15 May 1981. They also showed that Mr I paid standard rate NI contributions which supported both parties claim that the Plan was non-contributory.
- The limited evidence supplied by Standard Life suggested that Mr I was a member of the Plan for less than five years. In accordance with the SSA 73, it was more likely than not that Standard Life provided GPG with a refund of the contributions that it had made.
- Mr I did not receive any pension quotations or scheme literature so it was not reasonable for him to rely on the pension.

27. Mr I did not accept the Adjudicator's Opinion and the complaint was passed to me to consider. Mr I has provided his further comments which do not change the outcome. Mr I has said:-

- The revised contract made it clear that he would be eligible for the company pension scheme after one year of service, so he automatically joined the Plan on 28 June 1975.
- Standard Life had not provided any evidence to support the dates that it had supplied or to show that it had refunded the contributions to GPG.
- The Adjudicator could not assume that the contributions were refunded to GPG without collaborating evidence.
- He should be entitled to a pension of £205 a month and, whilst it is not a high amount, it would be useful.

28. I agree with the Adjudicator's Opinion and note the additional points made by Mr I.

## **Ombudsman's decision**

29. Mr I has said that he was a member of the company pension scheme from 28 June 1975 until 15 May 1981, so he is entitled to a pension from the Plan. Standard Life has said that Mr I was a member of the Plan between 1 July 1977 and 1 April 1979.
30. There is no legal requirement for Standard Life to keep detailed records from over 40 years ago. In the absence of the full facts and supporting evidence, my decision must be based on the balance of probabilities and what is most likely to have happened at the time. The burden of proof in this case lies with Mr I and it is for him to prove that he was in fact a member of the Plan throughout his eligible service with GPG.
31. In May 2016, Mr I contacted Standard Life to find out what benefits he was entitled to from the Plan. Standard Life confirmed that Mr I was a member of the Plan for less than five years so he was not entitled to any pension.
32. The revised contract that Mr I has provided states that employees would be eligible for the company pension scheme once they had completed 12 months service. It does not say that employees would be automatically enrolled, as Mr I says he was. Given the time that has passed since Mr I left GPG, Standard Life has limited documentation available. However, it has provided a record that shows Mr I joined the Plan, not GPG, on 1 July 1977. In the absence of any evidence to the contrary, I consider it is more likely than not that Mr I joined the Plan on 1 July 1977.
33. Mr I maintains that his Plan membership ceased when he left GPG on 15 May 1981. However, Standard Life has provided evidence which shows that the Plan closed on 31 March 1980 and Mr I had left the Plan, not GPG, on 1 April 1979. Mr I does not believe that the evidence that Standard Life has provided is sufficient to support the dates that it says he was a member of the Plan. However, he has not provided any evidence to support his claim. I have no reason to doubt that the Plan closed on 31 March 1980 so Mr I could not have been a member when he left GPG.
34. Mr I has not persuaded me that he held the Plan for at least five years so I do not agree that he is entitled to a preserved pension. In addition, as the Plan was non-contributory, Mr I did not personally pay into the company pension scheme so there are no contributions to refund to him. Standard Life does not have evidence of the contribution refund transaction and I do not find this unreasonable, considering the time that has passed since then. I think that it is more likely than not that GPG would have received a refund of the contributions that it made in accordance with the SSA 73.
35. Mr I has said that he was relying on a pension of around £205 a month, based on his calculations of what his entitlement might be. Had Mr I been entitled to a preserved pension, Standard Life would have sent him annual statements and information about his options in the lead up to his retirement as is standard practice for scheme administrators. Mr I did not receive any correspondence after he left the Plan so it was not reasonable for him to believe that he was entitled to a pension that he had received no information about.

CAS-31661-B1C8

36. I do not uphold Mr I's complaint.

**Anthony Arter**

Pensions Ombudsman  
19 October 2020