CAS-37539-Q0R8

Ombudsman's Determination

Applicant	Mr L
Scheme	The Prudential Staff Pension Scheme (**the Scheme**)
Respondent	Prudential Staff Pensions Limited (**the Trustee**)

Outcome

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

Complaint summary

2. Mr L's complaint is that the temporary additional pension awarded to him under the State Spreading Option (**SSO**) should have been paid until he reached his revised State Pension Age (**SPA**). It should not have ceased at age 65.

Background information, including submissions from the parties

3. Mr L was a member of the Scheme with an entitlement to deferred benefits.

4. On 19 February 2003, Prudential wrote to Mr L to confirm that, following his request, early payment of his deferred benefits on the grounds of ill health had been approved. It notified him that his benefits would be paid with effect from 1 December 2002.

5. Prudential also stated that the SSO was available to Mr L. It said that, under this option, Mr L's pension would initially be increased by £1,285.92 per annum. At SPA his pension would decrease by this figure together with an additional reduction of £2,640.12 per annum. It also said that both these figures would be subject to pension increases in the period up to Mr L's SPA.

6. Prudential's letter of 19 February 2003 also explained the SSO as follows:

> "The State Spreading Option is a facility whereby you can elect to permanently give up an amount of your Prudential pension in exchange for a higher temporary pension payable until you reach State Pension Age. The temporary pension will then cease and be replaced by your basic State 'old age' pension.

This arrangement is designed to ensure that your total pension income in retirement is broadly the same both before and after State Pension Age."

7. Attached to the letter of 19 February 2003 were some notes. Note (g) stated that:

   "State Pension Age is currently 65 for men and 60 for women however, for women this will change from 2020 to age 65. This will be phased in over a 10 year period from 2010."

8. On 21 February 2003, Mr L signed an option form confirming that he wished to apply for the SSO. This form stated that "State Pension Age is currently 65 for men …".

9. Mr L's deferred benefits were paid early on the grounds of ill health with pension payments backdated to 1 December 2002.

10. On 3 November 2011, the Pensions Act (2011) received Royal Assent. As a result of this, Mr L's State Pension Date changed from his 65th birthday in June 2019 to 6 March 2020.

11. On 25 March 2019, Prudential sent Mr L a pension increase letter. In this letter it stated that:

    "At retirement you elected to surrender part of your pension in exchange for an additional temporary pension under the State Spreading Option (SSO). This temporary pension is due to cease on [your 65th birthday]. (In practice your pension will be reduced with effect from the first of the month immediately following this date)."

12. On 24 June 2019, Prudential wrote to Mr L to remind him that his pension was due to decrease with effect from 1 July 2019 by £6,161.33 per annum. This equated to the figure of £3,926.04 per annum, quoted in its letter of 19 February 2003, together with subsequent pension increases.

13. On 26 June 2019, Mr L emailed Prudential to question why his pension had reduced. At this point he had not received Prudential's letter of 24 June 2019.

14. On 28 June 2019, Prudential responded to Mr L's email. In its response, it confirmed that the reduction in Mr L's pension was due to the SSO. It said that the reduction applied from the date which, at the time he selected the SSO, was the anticipated date on which his State Pension would commence. At that time, this was his 65th birthday. It stated that the cost neutral actuarial adjustment of his benefits was carried out on that basis. It went on to say that, if a later date had been used, then a lower starting pension would have applied. It also stated that, back in 2002, there was no expectation that his SPA would have increased from age 65.

15. On 1 and 5 July 2019, Mr L wrote to Prudential to raise an official complaint. He said that:-

    - The pension reduction should have been applied from when he reached SPA and not his 65th birthday.

- The additional £1,300 per annum up to his 65th birthday, in exchange for a reduction of over £6,000 per annum from age 65, was a poor deal.
- He had received no advance warning that his pension would be reduced.

16. On 20 August 2019, the Trustee provided its response to Mr L's complaint under stage two of the Scheme's Internal Dispute Resolution Procedure (**IDRP**). It did not uphold his complaint. In its response, and also in a subsequent letter, it stated that:-

- At the time early payment of Mr L's deferred benefits was approved, the SSO was calculated by reference to his anticipated State Pension Date in June 2019.
- The cost neutral actuarial adjustment of his benefits was carried out on that basis.
- Under the Scheme Rules, the additional pension was payable until the anticipated date Mr L's State pension was expected to be paid, as determined at the point that the Trustee permitted Mr L to exercise the SSO. When the Trustee approved Mr L's request to exercise the SSO, the anticipated date was his 65th birthday.
- Different figures would have been quoted if Prudential had known that the additional pension would have to be paid longer.
- The Trustee was not aware of the Government's plans to change the SPA when retirement options were quoted to Mr L.
- It agreed that the form Mr L signed when accepting the SSO only referred to SPA. However, it stated that this needed to be read in conjunction with the notes that were attached. These defined the SPA used in the calculation of his entitlement as being his 65th birthday.
- It recognised that the notification of the cessation of Mr L's temporary pension was not to the standard that it expected. As a result of this, it offered Mr L a £500 ex-gratia payment.

17. In his feedback on the Trustee's response, Mr L stated that nowhere in any of the retirement paperwork was age 65 mentioned as his SPA. He also said that the SSO was sold to him as a way of equalising his total pension. However, he had been left, for a period from June 2019 to March 2020, with a pension which had been reduced as a result of the SSO, despite him not being in receipt of his State Pension.

18. The Scheme is governed by its Trust Deed and Rules, (**the Scheme Rules**) dated 17 June 1998 as amended. Rule 34 covers 'Adjustment to benefit to take account of State Pension'. This Rule states:

"(A) At the written request of a member who is considered by the Trustees to be prospectively entitled to a pension under the National Insurance Acts 1946 to 1966 the Trustees to the intent that the Member's total pension during his or her retirement may remain of an approximately level annual amount may determine that the Member's pension under this Scheme whilst remaining of the same capital value will be of a varying annual amount the amount payable (subject to the provisions of the Scheme) until the date determined by the Trustees as being the anticipated date of the commencement of the National Insurance Pension being an increased amount and the amount payable (subject to the provisions of the Scheme) thereafter being a reduced amount."

Adjudicator's Opinion

19. Mr L'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:-

- The Adjudicator said that the Trustee is responsible for paying benefits in accordance with the Scheme Rules. He went on to note that Rule 34(A) sets out that, under the SSO, the pension is due to decrease on the date the Trustee determines is the anticipated SPA, which was age 65 in Mr L's case.

- The Adjudicator noted that actuarial calculations were undertaken at the time of Mr L's retirement to ensure that the value of his benefits without the SSO was equivalent to his benefits with the SSO applied. He also noted that these calculations were based on Mr L's pension being reduced when he attained SPA which was, at that time, age 65.

- The Adjudicator was satisfied that Mr L had not suffered a financial loss. He said that, if the Trustee had agreed to continue paying Mr L higher benefits until his revised SPA, he would have received more benefits from the Scheme than he was entitled to.

- The Adjudicator noted that the retirement information provided by Prudential referred mainly to SPA. However, the original SSO option form signed by Mr L in 2003 defined SPA as age 65. The Adjudicator took the view that Mr L ought reasonably to have been aware that the higher benefits were only payable until his 65th birthday.

- The Adjudicator noted that Mr L was unhappy about the value for money offered to him by the SSO. The Adjudicator recognised that the SSO was intended, when taking Mr L's State Pension into account, to provide him with a consistent pension income. This aim was not fully achieved due to legislative changes that increased Mr L's SPA. However, the Adjudicator was of the opinion that Mr L had received the same overall value of benefits from the Scheme to which he was entitled.

- The Adjudicator noted that the Trustee had acknowledged shortcomings in the way Mr L was notified of the impact of the change in his SPA on his benefits. He also noted it had offered Mr L a £500 ex-gratia payment.

20. Mr L did not accept the Adjudicator’s Opinion and the complaint was passed to me to consider.

21. Mr L provided his further comments which do not change the outcome. He said:-

- He still has concerns about how the SSO was sold to him.
- He received no notifications from Prudential concerning the reduction in his pension from age 65 until he contacted it after the reduction had been applied. In particular, he stated that he did not receive the communications dated 19 February 2003, 25 March 2019 and 24 June 2019.
- The form that he signed when accepting the SSO had no attaching notes that defined SPA.

22. I agree with the Adjudicator’s Opinion and note the additional points raised by Mr L.

Ombudsman’s decision

23. Mr L’s complaint concerns the fact that his pension was reduced from age 65 under the SSO. He says that the reduction should have been applied when he attained his updated SPA.

24. It is the Scheme Rules that determine the benefits that are payable. In the case of the SSO, the Scheme Rules state that the date when the pension reduction applies is the date on which the Trustee anticipates the member’s State Pension will commence.

25. When Mr L opted for the SSO, his SPA was 65. When he made this choice, it was over eight years before the Pensions Act (2011) resulted in Mr L’s SPA being increased. I am satisfied that neither Prudential nor the Trustee could have predicted the change to Mr L’s SPA. I find that it was fair to calculate his SSO benefits on the assumption that his State Pension would be paid at age 65.

26. Mr L has raised some concerns about how the SSO was sold to him and whether it represented value for money given the change to his SPA. The SSO benefit calculation is an actuarial calculation which ensures that the value of SSO benefits is identical to the value of benefits without the SSO applied. Mr L’s SSO benefits were calculated in February 2003 based on the assumption that the pension reduction would apply at age 65. I find that, had Prudential applied the deduction from a later date, as Mr L requested, he would have received a higher value of benefits than he was permitted under the Scheme Rules. I am satisfied that the application of the pension reduction at age 65 resulted in Mr L receiving the value of benefits that he was entitled to.

27. I note that Mr L has stated that he did not receive all of the communications that Prudential sent to him. It is not clear why these did not reach him. This is unfortunate as the communications in March and June 2019 provided some warning that his pension was being reduced at age 65. Prudential has acknowledged that there were

shortcomings in its communications, and I note that Prudential has offered an ex-gratia payment to Mr L.

28. I note Mr L's comment concerning the lack of notes on the form that he signed on 21 February 2003 when he applied for the SSO. However, note (g) on the same page that he signed did state that SPA was 65 at that point in time.

29. The evidence shows that the Trustee has applied the correct age in line with the Scheme Rules, and that Mr L was made aware of the precise age. I do not find that there has been maladministration, so I make no award.

30. I do not uphold Mr L's complaint.

Anthony Arter

Pensions Ombudsman
18 May 2021