

Ombudsman's Determination

Applicant	Mrs R
Scheme	Lloyds Bank Pension Scheme Number 2 (the Scheme)
Respondents	Lloyds Banking Group Pension Scheme Trustees Limited (the Trustee) Lloyds Banking Group (the Bank) Willis Towers Watson (WTW)

Outcome

1. I do not uphold Mrs R's complaint and no further action is required by the Trustee, the Bank or WTW.

Complaint summary

2. Mrs R has complained that the Bank paid an increase on the retirement pensions of some members, but she was incorrectly denied the same entitlement under the Scheme.

Background information, including submissions from the parties

3. In April 2016, Mrs R became aware that certain other members of the Scheme had been awarded a 'special increase' on their retirement pensions, having seen a 'Special Pensions Information Sheet' that a colleague had received with their benefit statement.
4. On 9 April 2018, Mrs R telephoned WTW, the administrator of the Scheme, to ask whether a 'special increase' had been applied to her pension.
5. On 16 April 2018, WTW wrote to Mrs R in response and said that she had only received a normal annual increase.
6. On 22 April 2018, Mrs R sent a letter to WTW complaining that:-
 - To qualify for a special increase, the 'Special Pensions Information Sheet' provided in 2015 specified that members had to:

- have completed 10 or more years continuous pensionable service immediately prior to retirement or leaving;
 - reached age 65 between 1 April 2014 and 31 March 2015; and
 - be in receipt of pension of less than £10,000 [a year]...following the ordinary pension increase.
- The Special Pensions Information Sheet also stated that “The special increase is 15% of the pension, with a minimum of £1,000 for those with pensions of less than £7,500 [a year]...”
 - This criteria should still apply since she had not received notification that it had been cancelled.
 - Having reached age 65 on 15 April 2018, she met the qualifying criteria for a ‘special increase’ from April 2019.
7. On 4 May 2018, WTW wrote to Mrs R and said that there had previously been a discretionary pension increase payable to members with a pension below £10,000 a year but this was no longer applicable.
8. On 17 May 2018, WTW sent a letter to Mrs R stating that:-
- The ‘Special Pensions Information Sheet’ that Mrs R referred to included three parts to the qualifying criteria for a special increase.
 - The second part of the criteria was that a member needed to have “reached age 65 between 1 April 2014 and 31 March 2015.”
 - Mrs R reached age 65 on 15 April 2018, and on that basis, she did not qualify for a ‘special increase’.
9. On 2 April 2019, Mrs R telephoned WTW to check if she would receive a discretionary increase on her pension.
10. On 9 April 2019, WTW wrote to Mrs R and said:-
- ‘Special increases’ are a discretionary payment awarded by the Bank.
 - The Trustee reviews these awards on an annual basis and informs WTW if the increase should be applied.
 - A letter would be sent to Mrs R should she become eligible for a ‘special increase’ in the future.
11. On 30 May 2019, WTW again wrote to Mrs R and said:-
- The Bank reviews pensions in payment periodically and ‘special increases’ are applied on a discretionary basis.

- This is provided for under the rules governing the Scheme.
- Mrs R had no entitlement to a 'special increase' because the Bank had decided to suspend discretionary payments.
- This followed a recent court case involving the Bank regarding Guaranteed Minimum Pension (**GMP**) equalisation, the outcome of which was still being considered.

12. On 3 June 2019, Mrs R telephoned WTW and complained that:-

- It was unreasonable of the Bank not to pay her a discretionary pension increase in a similar way to a former colleague who had received such an increase.
- It was not her fault that the Bank was unable to pay the additional pension due to the cost of GMP equalisation under the Scheme.
- She would like to see a copy of the Scheme Rule regarding discretionary pension increases.

13. On 11 June 2019, WTW wrote to Mrs W and said:-

- Discretionary pension increases were awarded at the Bank's discretion, outside of the Scheme Rules but there were no immediate plans to apply any such increases.
- Several factors were assessed when discretionary pension increases were considered, including the funding of the Scheme, upcoming costs, and investment market conditions.

14. On 18 June 2019, Mrs R wrote to WTW complaining that:-

- The letter of 9 April 2019 stated that discretionary increases were reviewed by the Trustee on an annual basis.
- By contrast the letter of 30 May 2019 suggested that pension reviews were carried out by the Bank and 'special increases' awarded on a discretionary basis.
- Then WTW's letter of 11 June 2019 stated that special increases were awarded at the Bank's discretion outside of the Scheme Rules.
- She would like clarification on these points since she had been provided with conflicting information.

15. On 13 August 2019, the Bank wrote to Mrs R in response and said:-

- 'Special increases' are awarded entirely at the discretion of the Bank and are not an entitlement under the Scheme Rules.
- Those increases have historically been applied to improve the pensions of low paid members with long service to the Bank.

- The Bank last applied a 'special increase' in April 2016, partly due to a court case concerning GMP entitlements.
 - Once the implications of that court case were understood, the Bank would be better placed to consider 'special increases.'
 - Mrs R had not been treated differently to any other member who retired between 1 April 2018 and 31 March 2019.
16. On 22 November 2019, Mrs R complained to the Trustee under the Scheme's Internal Dispute Resolution Procedure (**IDRP**), that she had unreasonably been denied a special increase.
17. On 13 December 2019, the Trustee wrote to Mrs R and said that it did not consider that her complaint was suitable for the IDRP, because 'special increases' are awarded solely at the discretion of the Bank. So, her dispute was not with the Trustee.

Mrs R's position

18. Mrs R says:-
- In its letter of 13 August 2019, the Bank said that she had not been paid a 'special increase' due to a court case regarding GMPs.
 - That response was unreasonable, because the Bank has a responsibility to provide equal benefit entitlements to all lower paid members, not only those who had met the qualifying criteria in previous years.
 - The GMP issue should be considered separately to a member's entitlement to special increases on their pension.
 - She is suffering a financial loss of approximately £50 a month, plus the index-linked annual increases on that sum, due to not being awarded a 'special increase'.
 - That supplement should be added to her pension and be backdated to April 2018, when she met the qualifying criteria.

The Bank's position

19. The Bank says:-
- Special increases are awarded solely at the Bank's discretion and are subject to the qualification criteria that the Bank deems to be appropriate at any given time. It was last awarded in 2016, and the Bank has reviewed the payment every year since then, but after considering all relevant factors, it has decided not to make the payment.

- Accordingly, in 2019 Mrs R and any other members who had reached age 65 in the 12-month period covering 1 April 2018 to 31 March 2019, were not granted the discretionary increase. Neither Mrs R nor any other member is automatically entitled to an augmentation on their pension.
- The Bank would review the possibility of a special increase, and the qualifying criteria for it again once the Scheme's GMP equalisation process has been completed. As principal employer of the Scheme, the Bank can augment any member's pension and provide additional benefits that they would not otherwise be entitled to receive under the Scheme Rules.

Adjudicator's Opinion

20. Mrs R's complaint was considered by one of our Adjudicators who concluded that no further action was required by the Trustee, the Bank or WTW. The Adjudicator's findings are summarised below:-

- The 'special increase' was provided by the Bank on a discretionary basis, outside of the Scheme Rules. So, in the Adjudicator's view it was for the Bank to determine the eligibility criteria for members who qualify for 'special increases', and the periods during which the payment would apply. The Bank last applied a 'special increase' in April 2016, due in part to the court case concerning GMP equalisation. Several other factors were assessed when such discretionary pension increases were being considered, including funding of the Scheme, upcoming costs, and investment market conditions.
- In the Adjudicator's view, the Bank has reasonably exercised its discretion not to pay a 'special increase' since 2016. It is entirely reasonable for the Bank to consider the court case and the GMP issue as this could result in a significant cost to the Scheme. Further, there was no requirement for the Bank to provide equal payment of 'special increases' to all lower paid members, irrespective of whether they met previously applied criteria such as those quoted in the Special Pensions Information Sheet provided to members in 2015. On the basis that Mrs R did not meet the criteria for a 'special increase' in 2015 there was no requirement for the Bank to now pay Mrs R a discretionary increase on her pension.

21. The Trustee, the Bank and WTW accepted the Adjudicator's Opinion, Mrs R did not, and the complaint was passed to me to consider. Mrs R provided her further comments which do not change the outcome. I agree with the Adjudicator's Opinion and note the additional points raised by Mrs R.

Mrs R's additional comments

- In its letter of 13 August 2019, the Bank has said that once the implications of the court case regarding the GMP issue were understood, it would be better placed to consider the payment of special increases. That court case was concluded in November 2020, giving the Bank ample time to assess the financial implications

for the Scheme. So, the Bank should now have carried out a review of the discretionary increase policy. However, there is no indication that the Bank has done so.

- The Bank has a duty of care to all lower paid members not only those members who had met the qualifying criteria in previous years when the Bank was not involved in a court case. Not to do so is unfair and undermines the reasons behind the allowance of a Special Increase. So, the discretionary special increase should be applied to her pension and backdated to 1 April 2018.
- WTW provided misleading information in the letter of 30 May 2019 and caused difficulties in contacting the correct department within the Bank to resolve her complaint. Had she been given correct information; she would reasonably have expected the special increase to be applied to her pension with no condition except the qualifying criteria which 'she had met in April 2018'.
- Since 9 April 2018 she has put a considerable amount of time and effort into making her complaint. This has included making numerous telephone calls and generated large amounts of correspondence which shows that the process has been frustrating. So, an award should be made in recognition of the distress and inconvenience caused.

Ombudsman's decision

22. Mrs R complained that she has incorrectly been denied a special increase on her retirement pension.
23. Special increases are a discretionary payment awarded by the Bank outside of the Scheme Rules. My role is to consider whether the decision was reached in a proper manner. There are some well-established principles which a decision-maker is expected to follow in exercising its discretion. Briefly, the decision-maker must consider and weigh all the relevant matters and no irrelevant ones. But the weight to attach to any piece of evidence is for the decision maker to decide. A decision maker could, if it wished, attach no weight at all to a piece of evidence. The only requirement is that the evidence is considered. Further, the decision maker must not reach a decision which no reasonable decision maker, properly directing itself, could arrive at in the circumstances.
24. If I am not satisfied that the decision has been taken properly I can ask the decision maker to look at the matter again. However, I will not usually replace the decision maker's decision with a decision of my own, nor can I tell them what their subsequent decision should be.
25. The Bank has confirmed that a special increase was last awarded to members in 2016, and that the award of future special increases has been reviewed every year since then. But having considered all relevant factors, a decision has been made not to make further special increase payments. This included waiting for the outcome of

the court case regarding the GMP equalisation. I find it was entirely reasonable to have placed a suspension on the payment of special increases whilst waiting for the outcome of the court case particularly given the potential impact this to the funding of the Scheme. I have seen nothing to suggest that the decision not to award discretionary increases since 2016 was perverse or that it was maladministration not to do so.

26. Mrs R said that WTW's letter of 30 May 2019, provided misleading information which caused her difficulties in complaining to the correct department within the Bank. I note that in this letter WTW correctly said that the Bank reviews pensions in payment periodically and special increases are applied on a discretionary basis. The letter also correctly stated that Mrs R had no entitlement to a special increase because the Bank had decided to suspend discretionary payments. I find that this information clearly confirms the Bank's position, and it ought to have left Mrs R in no doubt that her claim for a special increase was rejected, whichever department within the Bank she complained to.
27. In relation to future reviews the Bank has informed Mrs R that she will be informed if should she become eligible for a special increase in the future. That, of course will depend on whether Mrs R meets the relevant criteria at the time a special increase is paid. The fact remains that Mrs R did not meet the qualifying criteria set out in the 'Special Pensions Information Sheet' sent to some members in 2015. This is because it required her to have reached age 65 between 1 April 2014 and 31 March 2015, but Mrs R did not reach age 65 until 15 April 2018. Consequently, I find that the Trustee, the Bank and WTW have consistently and appropriately informed Mrs R that she was not entitled to a special increase on her pension. So, there is no requirement for a discretionary payment to be added to Mrs R's pension and backdated to April 2016.
28. While I appreciate this matter will have caused Mrs R some inconvenience, there is no evidence of maladministration by the Trustee, the Bank or WTW that warrants an award to Mrs R for distress and inconvenience.
29. I do not uphold Mrs R's complaint.

Anthony Arter

Pensions Ombudsman
22 May 2022