

## Ombudsman's Determination

Applicant	Dr G
Scheme	BP Pension Fund ( <b>the Fund</b> )
Respondent	BP Pension Trustees Limited ( <b>the Trustee</b> )

## Outcome

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

## Complaint summary

2. Dr G's complaint is that the Trustee misinformed her about what age she could take her unreduced retirement benefits from the Fund.
3. Dr G has also complained that she made irreversible financial decisions based on the misinformation.

## Background information, including submissions from the parties

4. On 18 September 1996, Dr G joined BP and became a member the Fund.
5. In 2006, Dr G was given notice of redundancy.
6. In May 2006, the Fund administrator (**the Administrator**) sent Dr G redundancy terms (**the Terms**). It explained that:-
  - In February 2028, her yearly pension would be £11,532.73.
  - If she took her pension in February 2018, at age 50, her yearly pension would be £8,068.62.
  - There would be a reduction of 30.04% for taking the retirement benefits at age 50.
7. On 30 June 2006, Dr G was made redundant by BP and became a deferred member of the Fund.
8. On 27 March 2007, the Administrator sent Dr G a leaving options statement (**the Statement**) which explained that:

- her benefits would remain deferred until she reached age 60, her normal retirement age (**NRA**);
- she could take her benefits when she reached age 50, with a reduction; or
- she could choose to transfer her benefits to another pension scheme.

9. The Statement also said:

“You may elect to receive an immediate pension at a reduced rate any time from your 50<sup>th</sup> birthday (55<sup>th</sup> birthday from 6 April 2010). The amount of reduction will depend upon the age at which your pension commences.”

10. On 6 April 2010, the Trustee changed the Fund rules (**the Rules**) and the minimum retirement age for Dr G became age 55.

11. On 13 October 2016, Dr G decided to explore the possibility of taking a career break of three to six months. She wrote to the Administrator and asked:

- if she could take her retirement benefits when she reached age 50; and
- if she could, would there be a reduction of 15%, for taking the benefits five years earlier than age 55.

12. On 14 October 2016, the Administrator said:

“In 2010 the rule changed and the earliest age you are able to take your pension is age 55. You will be able to take your pension at age 55 without any reduction.”

13. Dr G has said that she took an extended career break between 2016 and 2019, based on the Administrator’s response on 14 October 2016.

14. On 20 October 2018, Dr G wrote to the Administrator to request an illustration of a Cash Equivalent Transfer Value (**CETV**).

15. In response, the Administrator directed Dr G to its website to check her current transfer value.

16. On 22 October 2018, Dr G responded and said:-

- The illustration of a CETV said that there would be a reduction applied if she took her retirement benefits before, she reached age 60.
- She believed that she could take her retirement benefits at age 55, without a reduction, because she left the Fund before the Rules changed in 2010.

17. On 23 October 2018, the Administrator responded and said:-

- Dr G was made redundant before she reached age 40, so, there would be a 15% reduction applied to her retirement benefits if she took them when she reached age 55.
  - She could only be granted an unreduced pension from age 55 if: she was made redundant before 1 December 2006; had more than 10 years of qualifying service; and was at least 45 at the time of redundancy.
18. On 6 November 2018, Dr G responded and said that one of the terms of her redundancy in 2006, was that she was entitled to an unreduced pension when she reached age 55.
19. On 8 November 2018, the Administrator provided Dr G with a copy of the Statement and highlighted the points mentioned in paragraph eight.
20. In response, Dr G sent the Administrator a copy of its email from 14 October 2016 which had said “You will be able to take your pension at age 55 without any reduction”.
21. Between November 2018 and January 2019, Dr G corresponded with the Administrator to establish her entitlement for when she reached age 55.
22. In January 2019, the Administrator telephoned Dr G. It informed her that the information she had received on 14 October 2016, was incorrect and did not reflect her entitlement within the Fund.
23. On 2 April 2019, Dr G submitted a formal complaint to the Administrator. She said that:-
- She was incorrectly informed that she could take her retirement benefits, unreduced, when she reached age 55.
  - She had relied on the information, provided on 14 October 2016, to make important decisions.
  - The Administrator should pay her retirement benefits, on an unreduced basis, when she reached age 55.
24. On 26 April 2019, the Administrator responded to Dr G’s complaint. It apologised for providing her with incorrect information and explained that:-
- Under the Rules, she could take early retirement at any time from age 55, subject to an actuarial reduction.
  - The Terms and the Statement both explained that Dr G could only take unreduced benefits when she reached age 60. This was supported by a member handbook, illustrations and all documents provided through the Trustee’s website, available to Dr G.

- The provision of incorrect information did not entitle Dr G to an unreduced pension at age 55 and it had no discretion to pay benefits outside of the Rules.
25. On 31 May 2019, Dr G made a complaint under the Fund's Internal Dispute Resolution Procedure (**IDRP**). Dr G's IDRP complaint reiterated the same points that she had raised in her formal complaint.
26. On 8 August 2019, the Trustee responded to Dr G's IDRP complaint. The Trustee did not uphold Dr G's complaint and said:-
- It could only act in accordance with the Rules.
  - The provision of incorrect information did not entitle Dr G with the right to receive the incorrect level of benefits.
  - Dr G had suffered a loss of expectation rather than a financial loss.
  - The Trustee had seen no evidence that Dr G had made "personal and financial decisions" after she received the incorrect information.
  - It offered Dr G a sum of £750 in recognition of the distress and inconvenience she had suffered due to the Administrator's misinformation and for the delays in responding to her complaint.
27. Dr G's position:-
- She contacted BP in October 2016 to establish her financial position because she was considering taking a career break of three to six months.
  - She had decided to take a two to three year career break based on the information that she received on 14 October 2016.
  - Had she received the correct information in 2016 she would have returned to work in mid-2017. As a result, she returned to work in September 2019 and so has lost out on two years' salary.
28. The Trustee's position:-
- It was unreasonable for Dr G to have relied entirely on the information sent to her, on 14 October 2016, to make "irreversible financial decisions" and to take an extended career break.
  - It was not clear how a 15% reduction of her pension benefits, which could only be taken in February 2023, caused her to change her career break from three to six months to a three-year career break.
  - Dr G had continued with her career break, until September 2019, after she was informed that her pension would be reduced for payment, if taken at age 55.

## **Adjudicator's Opinion**

29. Dr G'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 Trustee can only pay benefits in accordance with the Rules. These state that Dr G is not entitled to an unreduced pension until she has reached age 60.
  - In October 2016, the Administrator erroneously told Dr G that she could take unreduced pension benefits when she reached age 55.
  - It was not reasonable for Dr G to significantly extend her planned career break based on the information she was given in October 2016. This was because it was not in line with any previous correspondence.
  - Dr G had not provided any evidence to show when her career break started, when she actively started seeking re-employment or when she returned to work.
  - Dr G had been advised of the correct position in October 2018, but she did not return to work until September 2019. This did not support Dr G's argument that she would have returned to work sooner than she did, had she been provided with the correct information.
  - Dr G had suffered a loss of expectation rather than a financial loss, because she is unable to take her benefits in the way she hoped.
  - The provision of incorrect information amounted to maladministration, but the Trustee's offer of £750 for distress and inconvenience that Dr G had suffered was reasonable.
30. The Trustee accepted the Adjudicator's Opinion and said that the offer of £750 remains payable to Dr G.
31. Dr G did not accept the Adjudicator's Opinion and her complaint was passed to me to consider. Dr G provided her further comments which do not change the outcome. I agree with the Adjudicator's Opinion and note the additional points raised by Dr G. Dr G's further comments are as follows:-
- She had planned a two-year career break based on the information that the Administrator provided to her in October 2016. However, she began to seek re-employment in March 2018, with a view to becoming re-employed by October 2018.
  - Had she known the correct position, she would have sought re-employment from January 2017, with a view to becoming re-employed by April or June 2017.
  - She was offered a new job in the Summer of 2018. However, due to a company re-organisation, she was informed that her new role had been made redundant.

After several meetings and interviews from Spring 2019 onwards, she was offered a new role in September 2019.

- She believed that the information provided to her in October 2016 was correct. This was due to a change in the Rules in 2010, whereby her minimum retirement age increased from age 50, to 55. She thought that it was a reasonable compromise that she could claim an unreduced pension at age 55, as a result.
- She believed that she had suffered a real financial loss because she had made retirement plans that were based on claiming an unreduced pension at age 55, not 60.
- She would have been unaware that she was only entitled to an unreduced pension, at age 60, had she not contacted the Administrator when she did.
- The Trustees' offer of £750 for distress and inconvenience was insufficient and did not reflect her financial loss. She believed that it would be reasonable for the Trustees to honour the statement made in October 2016.

### **Ombudsman's decision**

32. Dr G has complained that she significantly extended a planned career break from six months to between two and three years, based on incorrect information that she received in October 2016. She says that, had she been advised that she was only entitled to unreduced benefits when she reached age 60, she would have sought re-employment sooner than she did.
33. Dr G was not provided with any illustrative figures when she was told she could take unreduced benefits at age 55. It is unclear how she planned to extend her career break, so significantly, with no information regarding the value of her benefits. Additionally, the information that Dr G received in October 2016 did not accord with any previous correspondence provided and available to her. I find it was unreasonable for Dr G to make such significant changes to her career break based on one email from the Administrator. Had Dr G sought additional clarification, it is likely she would have been made aware of the misstatement sooner which would have allowed her to adjust her planned career break accordingly.
34. Dr G contends that she did not seek re-employment until September 2019. She has submitted evidence to show that she began searching for re-employment in March 2018. Her search led to a successful appointment, due to start on 1 October 2018. However, the role was made redundant the month before she was due to start. Dr G says that when she was made aware of the misstatement in October 2018, she proactively began to search for a new role. But she did not become re-employed until September 2019.
35. While I appreciate that Dr G was proactive in her search for new employment, a greater level of proactivity does not provide a guarantee of success in gaining new

employment. Whether or not Dr G was provided with incorrect information, there was no guarantee that she would have secured paid employment at the end of a six-month career break or a three-year career break. The Trustee cannot be held responsible for the choice's Dr G made regarding her job search.

36. Dr G has said that she has lost out on around two years' worth of salary, because of her extended career break. Additionally, she says her financial plans for retirement have been substantially affected because she cannot take unreduced benefits when she had planned to. Dr G ought reasonably to have been aware that extending her career break would prolong the time she spent without receiving a salary. Further, Dr G has not provided any evidence to demonstrate the extent of her financial loss or how this financial loss has occurred. Without any evidence, it is difficult to conclude that Dr G suffered financial loss in reliance of receiving unreduced benefits from age 55.
37. In any event, Dr G was provided with the correct information some five years before she reached age 55. So, she had sufficient time to reassess her retirement plans or any financial commitments she may have made for the future.
38. Dr G does not agree that the Trustee's offer of £750, for distress and inconvenience, is sufficient for the loss that she incurred from the misstatement. She believes that the Trustee should honour the Administrator's email of 14 October 2016 and provide her with an unreduced pension from age 55. The Rules do not allow for Dr G to receive an unreduced pension between the ages of 55 and 60. Further, the Administrator and the Trustee have no discretion to pay Dr G unreduced benefits before she reaches age 60.
39. I find that, while Dr G was misinformed that she could take unreduced benefits at the age of 55, there is no evidence to support her assertion that it was reasonable for her to rely on the misinformation to the extent that she did.
40. The Trustee accepted that the Administrator provided Dr G with incorrect information. It acknowledged Dr G's loss of expectation as well as the distress and inconvenience she suffered. I am satisfied that the Trustee's offer of £750 is reasonable redress given the circumstances. If Dr G wishes to accept the Offer, which the Trustee has agreed is still payable, she should approach the Trustee directly.
41. I do not uphold Dr G's complaint.

**Anthony Arter**

Pensions Ombudsman  
24 May 2021