

Ombudsman's Determination

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| Applicant | Mr D |
| Scheme | Stantec Pension Plan (UK) (the Plan) |
| Respondent | The Trustees of the Stantec Pension Plan (UK) (the Trustee) |

Outcome

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

Complaint summary

2. Mr D has complained that he was sent retirement illustrations, but the figures quoted were subsequently found to be overstated. Having now received the lower, correct figures, he claims he has been caused financial detriment and that the incorrect figures should be honoured.

Background information, including submissions from the parties

3. Mr D is currently a deferred member of the Plan.
4. For members of the Plan who had previously accrued benefits in the Bechtel Water Technology Limited Pension Plan (**Bechtel**) up to 31 March 2000, while employed by Bechtel Water Technology (**BWT**), the Definitive Trust Deed and Rules of Stantec Pension Plan (UK), 27 December 2019, (**the Plan Rules**) provide that:-

“**Final Pensionable Salary (on the BWT Basis)**” means in relation to a BWT Member, the highest average amount of the Member's Pensionable Salary for any 36 month period in the 10 years ending on the date his Pensionable Service terminates less an amount equal to the single person's basic state pension (expressed as an annual rate) at the date the Member's Pensionable Service terminates...”

5. However, for member's benefits accrued from 1 April 2000, the Plan Rules state that:-

“**Final pensionable salary**” means the greater of:

- (a) the highest Pensionable Salary payable to a Member on any one of the last five Accounting dates immediately preceding the Relevant date; or

(b) the highest annual average of Pensionable Salaries payable to a Member on the Accounting date in any three or more consecutive years (or such shorter period during which the Pensionable Salary is payable) in the 10 year period ending on the Relevant date...”.

6. Mr D became a member of Bechtel in April 1996.
7. On 1 April 2000, Mr D joined the Plan as part of a bulk transfer in from Bechtel.
8. On 31 March 2005, Mr D left pensionable service and became a deferred member.
9. In 2006, Clerical Medical, the Plan’s administrator, sent Mr D a benefit statement that set out his pension entitlement as at 1 April 2006 (**the April 2006 Statement**) which quoted the following details:-

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| Pensionable service on 1 April 2006 | 9 years |
| Normal retirement date (NRD) | 28 August 2024 |
| Annual pension at NRD | £4,775 |

10. On 7 November 2017, Clerical Medical sent Mr D a retirement quotation for early retirement on 28 August 2018 (**the November 2017 Quotation**). The options quoted were:-
 - Full pension of £5,881.71 per year or
 - A lump sum of £24,826.66 with a reduced pension of £3,724 per year
11. On 26 February 2019, Mr D contacted Clerical Medical, to ask for a retirement quotation showing the benefits payable when he would be age 60, on 28 August 2019.
12. On 11 April 2019, Mr D received a retirement quotation (**the April 2019 Quotation**) quoting an annual pension of £6,326.25 at age 60.
13. On 12 April 2019, Mr D’s financial adviser (**the Adviser**) contacted Clerical Medical to ask for a benefit statement.
14. In June 2019, Mr D contacted Clerical Medical to ask for a retirement quotation.
15. On 19 July 2019, the Adviser received a benefit statement, (**the July 2019 Statement**) quoting an annual pension of £6,000.46 for immediate benefits.
16. On 21 August 2019, Clerical Medical sent the retirement quotation that Mr D had requested in June 2019 to the Adviser, (**the August 2019 Quotation**), quoting an annual pension of £5,108.07.
17. On 23 August 2019, Mr D emailed Clerical Medical and complained that the August 2019 Quotation was lower than the July 2019 Statement, and that it was also inconsistent with the April 2006 Statement.

18. On 10 October 2019, Clerical Medical wrote to Mr D in response to his complaint and provided an explanation of the errors, saying:-

- During Mr D's membership of Bechtel he was contracted out of the state pension. So, an element of Guaranteed Minimum Pension (**GMP**) entitlement was included in his retirement benefit figures. The original GMP figure when Mr D left Bechtel on 31 March 2000 was £86.32 but should have been increased to a later date, resulting in a final GMP figure of £117.
- While Mr D had been a Bechtel member between 1 April 1996 and 31 March 2000, the definition of final pensionable salary was the highest average pensionable salary for any 36 consecutive months in the 10 years preceding leaving, less the basic state pension payable at the time. When Mr D joined the Plan, a different definition of final pensionable salary was used going forward (as set out in paragraph 5 above). Unfortunately, that later definition was used in the retirement illustrations for all of Mr D's accrued pension, when it should only have been used for benefits accrued from 1 April 2000. This resulted in a higher pension at the date of leaving being quoted than Mr D was entitled to receive under the Plan Rules.
- The retirement figures quoted before the August 2019 Quotation were therefore due to incorrect final salary and GMP figures having been used in calculating the benefits from Mr D's date of leaving. The correct figures were quoted in the August 2019 Quotation.

19. On 4 November 2019, the Adviser emailed Clerical Medical and complained on Mr D's behalf under the Scheme's Internal Dispute Resolution Procedure (**IDRP**) and said:-

- The April 2019 Quotation stated that an annual pension of £6,326.25 would be payable. This information was used as the basis for advice provided to Mr D. It had since been identified that an error was made by Clerical Medical around 19 years previously, which resulted in the benefit entitlement being lower than stated by Clerical Medical.
- The yearly reduction in the pension quoted of £1,218 was significant since Mr D had relied on the original figures for around 19 years in his retirement planning. Mr D had hoped to retire in August 2018 but was unable to do so as a result of the reduced benefit entitlement. The resulting delay in the benefits being claimed also caused Mr D to miss out on payments of around £500 per month. The Trustee should honour the benefits quoted in the April 2019 Quotation.

20. On 9 January 2020, the Adviser emailed the Trustee and complained that:-

- The August 2019 Quotation was lower than earlier benefit details provided to Mr D between April 2019 and July 2019. The concerns raised in his email of 4 November 2019 had also been ignored.

- It was unreasonable that an error made as long ago as 2000 was only identified a few months before Mr D's retirement in August 2019. Mr D felt unable to claim his retirement benefits until this issue had been resolved.
21. In April 2020, Clerical Medical offered Mr D a £250 award in settlement of his complaint.
 22. On 14 May 2020, the Adviser emailed Clerical Medical and rejected the £250 award on Mr D's behalf.
 23. On 15 May 2020, the Trustee emailed the Adviser and said that Mr D's concerns would be investigated under stage two of the Plan's IDRPs. The Trustee also asked the Adviser to provide any further information that may be available in support of Mr D's claim for financial detriment.
 24. On the same day the Adviser replied to the Trustee and said that he could not provide any further information in support of Mr D's complaint.
 25. On 5 June 2020, Clerical Medical emailed the Trustee and agreed that an increased award of £500 would be appropriate.
 26. On 8 June 2020, the Trustee wrote to the Adviser in response to Mr D's complaint under stage two of the IDRPs and said:-
 - Mr D reasonably relied on the incorrect benefit details that he received. This error occurred as the calculation of a pension was complicated. Additionally, no details had been provided in any correspondence that would have alerted Mr D to the fact that an error had been made.
 - Mr D did not suffer irreversible financial detriment since he was informed of the correct benefit entitlement figures before committing to early retirement. On the balance of probabilities, it was also unlikely that Mr D would have made a different decision regarding his planned retirement date, even if he had been provided with correct retirement quotations between April 2019 and July 2019.
 - The incorrect retirement quotations sent to Mr D amounted to maladministration by Clerical Medical. Having reviewed Mr D's complaint, Clerical Medical had concluded that an increased award of £500 to Mr D in recognition of the distress and inconvenience caused to him would be appropriate.

Mr D's position

27. The April 2019 Quotation showed a pension of £6,326 a year and was consistent with figures he had previously received from Clerical Medical over several years. He had planned to retire in August 2019, but the August 2019 Quotation showed an annual pension of only £5,108.07, which was almost 20% lower than the April 2019 Quotation.

28. The Trustee's refusal to honour the figure of £6,326 stated in the April 2019 Quotation has caused him to miss out on over three years of retirement income. The lower figure of £5,108.07 offered in the August 2019 Quotation meant that his benefit entitlement would be around £1,218 a year or £23 a week lower than he had expected.

The Trustee's position

29. The only retirement quotation sent to Mr D before April 2019 was the November 2017 Quotation.
30. It accepted that Mr D would reasonably have relied on the figures provided in the April 2019 Quotation before he received the August 2019 Quotation. However, there is no evidence that Mr D would have acted any differently, had he been provided with the correct figures earlier or at the point of joining the Plan. There is also no evidence that the reduced figures set out in the August 2019 Quotation would cause Mr D irrevocable financial detriment.

Adjudicator's Opinion

31. Mr D'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 has acknowledged that the benefits quoted by Clerical Medical in the April 2019 Quotation were incorrect. The error occurred because from the point Mr D left the Plan in 2005, the retirement figures quoted had been incorrectly calculated based entirely on the Plan's definition of final pensionable salary from 1 April 2000.
 - A portion of the benefits should have been calculated based on the less generous Bechtel definition of final pensionable salary that applied up to 31 March 2000. Mr D's GMP entitlement was also calculated incorrectly. Consequently, the benefits quoted in correspondence sent to Mr D between April 2006 and July 2019, were overstated. In the Adjudicator's opinion this amounts to maladministration by Clerical Medical.
 - Despite maladministration being identified there is no evidence that Mr D has retired, so it is reasonable to assume that he is in receipt of employment income. Even if this is not the case, as Mr D's NRD is 28 August 2024, the retirement benefits payable would have been subject to a larger actuarial reduction for early retirement the further away from NRD he was. As such, his retirement benefits will now be greater. The GMP element of Mr D's entitlements would also not then have increased through annual revaluations.
 - Claiming the benefits at a later date than originally planned would not cause a financial loss to Mr D and could perhaps be to his benefit. Mr D has also not

provided any evidence of having made any irreversible financial commitments that could cause him financial detriment resulting from any errors made by Clerical Medical.

- In the Adjudicator's view there was no financial loss to Mr D caused by the previously mentioned maladministration. The Trustee can only permit the payment of benefits in accordance with the Plan Rules. So, the benefits set out in the August 2019 Quotation are those to which Mr D is entitled.
- However, the incorrect information would have caused Mr D significant distress and inconvenience. A payment of £500 is in keeping with my guidance for non-financial injustice of this type. So, in the Adjudicator's opinion the offer of £500 to Mr D is sufficient recognition of the distress and inconvenience caused to him.

32. The Trustee accepted the Adjudicator's opinion, Mr D did not, and the complaint was passed to me to consider. Mr D provided his further comments, which do not change the outcome. I agree with the Adjudicator's Opinion and note the additional points raised by Mr D and the Trustee.

Mr D's additional comments

33. The £500 award offered by the Trustee is insufficient in view of the financial detriment caused as well as the distress and inconvenience he has suffered. He would also like the options of either backdating his retirement to August 2019, or of claiming the benefits from a current date. So, the Trustee should provide retirement quotations to facilitate this.

The Trustee's additional comments

34. Should Mr D claim his retirement benefits backdated to 2019, the early retirement pension payable would be lower than if he retires from a current date. However, the pension may be backdated if this is Mr D's preferred option. So, retirement quotations for both backdated benefits and a pension from a current date can be sent to Mr D on request.

Ombudsman's decision

35. There is no dispute that Clerical Medical provided Mr D with incorrect information over a sustained period, which led him to believe that he was entitled to a higher level of retirement benefit than is actually the case. This amounts to maladministration.
36. The figures later set out in the August 2019 Quotation accurately represent Mr D's correct entitlement from the Plan. I understand this will be a disappointment to Mr D, however members are only entitled to the correct benefits calculated according to the Plan rules – and so Mr D is not entitled to receive the misquoted benefit.
37. I have also considered whether the incorrect quotations may amount to a negligent misstatement or that the Trustee is 'estopped' from going back on the benefits set out

in those document (as a result of the doctrine of estoppel by representation), whether it was reasonable for Mr D to have relied on the incorrect information and, if so, whether Mr D has materially changed his position on the basis of the incorrect information and suffered loss.

38. The Trustee has not disputed that Mr D did reasonably rely on the incorrect information it provided to him between April 2006 and July 2019. On that basis, Mr D has argued that he has suffered a financial loss as a result and his retirement benefits are lower than he was previously quoted. However, while I sympathise with Mr D and acknowledge that his financial planning will have been impacted by the provision of misleading and incorrect information, I note that, despite being invited to do so, he has provided no evidence that he made any irreversible financial agreements or acted in any particular way as a result of receiving this incorrect information. Mr D has therefore been unable to establish that he has suffered any financial detriment or loss as a result of the maladministration. Accordingly, in the absence of any evidenced loss or detriment suffered, Mr D does not have a successful claim for negligent misstatement or estoppel by representation. As a result, Mr D is only entitled to the correct benefit payable under the Plan's Rules.
39. In passing, I note also that the Trustee has confirmed that Mr D may claim his pension backdated to 2019 (albeit based on the correct figures and with an appropriate reduction applied) when this dispute first emerged, should this be his preferred option. Alternatively, Mr D can retire from a current or future date if he wishes.
40. I find that the £500 award offered to Mr D is sufficient recognition of the distress and inconvenience he has suffered. Mr D should contact the Trustee if he would now like to accept the £500 award.
41. I do not uphold Mr D's complaint.

Dominic Harris

Pensions Ombudsman
26 April 2023