

Ombudsman's Determination

Applicant	Mr N
Scheme	Royal Bank of Scotland Group Retirement Savings Plan (the Plan)
Respondent	The Royal Bank of Scotland plc (RBS)

Outcome

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

Complaint summary

2. Mr N complained that RBS failed to inform him that upon leaving service he would need to transfer his benefits from the Plan to another pension arrangement. As a result of this, he has lost his entitlement to any benefits in the Plan.
3. Mr N has said that he would like to transfer his benefits from the Plan to his new employer's pension scheme or, alternatively, to receive a refund of contributions.

Background information, including submissions from the parties

4. On 7 October 2013, Mr N joined RBS on an apprenticeship program and became an active member of the Plan. At the time, the Plan was administered by RBS Pensions Services (**the Administrator**), an in-house administrator appointed by the Trustee of the Royal Bank of Scotland Group Retirement Savings Plan (**the Trustee**). The Administrator was distinct from RBS, whose role was Mr N's Employer.
5. The Administrator managed the day-to-day operations of the Plan, handling tasks such as record keeping, benefit distributions, and ensuring compliance with regulations. RBS sponsored the Plan for its employees and was responsible for establishing eligibility criteria, contributing to the Plan, and had other fiduciary duties. The Trustee held and managed the Plan's assets and oversaw investment decisions ensuring compliance with regulations and fiduciary duties.
6. The Plan is governed by the Royal Bank of Scotland Group Retirement Savings Plan Rules, effective from 1 October 2006 (**the Plan Rules**). The specific Rule relevant to Mr N's complaint is Rule 7 and is set out in the Appendix.

7. RBS has said that the Plan is part of a salary sacrifice arrangement whereby the employee agrees to exchange part of their salary before tax, in return for a non-cash benefit. In Mr N's case, his non-cash benefit was a pension contribution. Although the Plan is a salary sacrifice arrangement, it is non-contributory. This means the contributions made during the course of Mr N's service were considered employer contributions and not employee contributions. The employee had the option of contributing themselves, but these would be treated as Additional Voluntary Contributions (**AVCs**). Mr N did not pay any AVCs to the Plan.
8. On 2 October 2015, Mr N ended his employment with RBS and left the Plan with less than two years' qualifying service. During the course of his service, Mr N sacrificed 10% of his salary, and in return 21 contributions were made to the Plan on his behalf, with the final contribution being made in June 2015. The value of these contributions totalled £3,044.97.
9. On 9 October 2015, the Administrator wrote to Mr N at his recorded home address at the time, notifying him of the following:

"You left the Plan on 2 October 2015 with less than 2 years' qualifying service. You must transfer the value of your pension investments to another registered pension provider such as a new employer's scheme or personal pension plan.

...

If you do not complete the transfer by 9 January 2016, you will lose your rights to any benefits from the Plan."
10. On 8 January 2016, the Administrator wrote to Mr N again and reminded him to transfer his benefits to another pension arrangement. It provided him with the following warning:

"Action Required By You

You must complete the transfer by 9 July 2016 otherwise you will lose your rights to any benefits from the Plan. If you are having problems with the transfer, please contact us."
11. In 2019, Mr N was advised by his new employer to join its pension scheme. This prompted him to contact RBS and seek information about the benefits he had accrued in the Plan. RBS responded to his request by stating that it was unable to find his information on its system. After raising numerous other enquiries, Mr N was subsequently informed that as he had less than two years' qualifying service, it was unlikely that the Administrator would have retained his information. It was explained that upon leaving service he would have been informed that he should transfer his benefits from the Plan, otherwise if he took no further action, he would lose his entitlement to any benefits.
12. On 7 July 2020, Mr N raised his complaint under stage one of the Plan's Internal Dispute Resolution Procedure (**IDRP**). He said that:-

- When he finished his apprenticeship, he informed RBS that he would be ending his employment and going to university in Leeds. Before leaving service, he had a final meeting with his manager and HR. During this meeting, he was not advised that he needed to transfer his benefits from the Plan.
 - Both his manager and HR were aware that he would be relocating from his known address and moving to Leeds, and they did not ask him to provide his new address.
 - He attended university in Leeds for three years and during this time he received no communication in relation to the Plan or about his options.
 - He worked at RBS for a year and 51 weeks, contributed 10% of his salary, and at no point was he advised that upon leaving service he would need to transfer his benefits from the Plan.
 - He would like the Trustee to find the benefits he accrued during his service and advise him of his options.
13. On 14 July 2020, the Trustee issued its response to the complaint, under stage one of the Plan's IDRP. It said the following:
- Under the terms of the Plan Rules, as Mr N was a member of the Plan for less than two years (7 October 2013 to 2 October 2015), on leaving, he was offered the opportunity to transfer the full value of his Plan benefits to another registered pension arrangement of his choice.
 - Its records showed that Mr N was notified of this by the Administrator following his withdrawal from service. This notification was sent to him on 9 October 2015 and a further reminder was sent on 8 January 2016.
 - When Mr N joined RBS, he would have been directed to the Plan's Member Booklet (**the Booklet**) which was available from the Plan's main benefits platform (**RBSelect**).
 - The Booklet clearly stated that:

"If you leave the Group with two years' qualifying service, the full value of your account may be:

 - left in the Plan where it will continue to be invested until you retire; or
 - transferred to a new employer's registered pension scheme; or
 - transferred to a registered personal pension plan of your choice.

If you leave the Group with less than two years' qualifying service you will be offered a transfer value of the full value of your account, to take to another registered pension arrangement of your choice. If you do not complete the

transfer within a specified time after leaving service, you will lose the right to this benefit.”

- Mr N did not make any election to transfer to an alternative arrangement when this option was offered to him, so he had lost the right to any benefit in the Plan.
14. On 7 August 2020, Mr N responded to the Trustee and stated that he wanted his complaint to be reviewed under stage two of the IDRP. He reiterated his belief that he had not received any instruction to transfer his benefits out of the Plan and was under the impression that his benefits were preserved in the Plan.
15. On 10 September 2020, the Trustee issued its response to the complaint under stage two of the Plan’s IDRP. It stated that, after considering the matter and seeking legal advice, it was not upholding Mr N’s complaint for broadly the same reasons as set out in its response of 14 July 2020.
16. Mr N’s position:-
- RBS and the Administrator were aware that he was ending his employment. Despite this, he was not informed that upon leaving service his benefits would not be preserved in the Plan, or that he would need to transfer them to another pension arrangement.
 - He informed his manager and HR that he was relocating to another city to attend university. So, the Administrator should have known that he was no longer residing at the address the notification letters dated 9 October 2015 and 8 January 2016 were sent to. There were no attempts made to provide him with the same information via telephone or email.
 - In his view, HR and the individuals he spoke to at RBS were not aware that he had not completed two years of pensionable service. This is because the conversations he had with them did not make it apparent that he had to take any further action regarding the Plan.
 - During his employment with RBS, he was not directed to consult RBSelect or informed what purpose this platform served. He only recalls seeing RBSelect on his payslip. He was also not informed about the Booklet. In his view, when he informed RBS that he would end his employment he should have been directed to RBSelect. He thought that once he left RBS, he would not have access to that service.
 - If his new address had been requested by either RBS or the Administrator, he would have provided this information.
 - After he left the employment at RBS, he received no additional communication or correspondence. In his view, it was apparent to the Administrator that he did not respond to either of the two letters it sent. RBS should have had all the

information from his departure interviews, where he informed RBS of his relocation.

- He is unhappy that he has lost out on £3,044.97. He would like a refund of his contributions or to be allowed to transfer his benefits out of the Plan to his new employer's pension scheme.

17. RBS' position:-

- Upon joining the Plan, Mr N was advised to consult with RBSelect. If he had done so, he would have been aware of the distinction between RBS as an Employer and RBS Pension Services as the Administrator. He would have also been aware that it was his responsibility to inform the Administrator of any changes to his address and would have been informed of the normal procedures when a member leaves the Plan before completing two years' qualifying service.
- Prior to the IDR process, Mr N had not claimed that he was unaware of RBSelect or informed about the Booklet.
- Mr N has said that he deliberately chose not to provide his manager with his new address, as he saw no reason to do so. RBS' position is that it was not the manager's duty to demand that address or to give reasons for a forwarding address to be provided. Any reasonable person would take every opportunity to inform their past employer, let alone a pension scheme, of a forwarding address, whether any future correspondence was to be expected or not. In addition, any reasonable person who changed address would take some action to ensure post of any nature was forwarded to the new address.
- Mr N ought to have informed the Administrator of his change of address. There was no reason for his manager to assume that he had not done so.
- It is incorrect for Mr N to state that he had no means of knowing about the Plan Rules. He would have been directed to RBSelect upon joining RBS, as was the standard custom and practice.

18. The Trustee also provided the following comments:-

- It is required to administer the Plan in line with the Plan Rules. These Rules stipulate that, where a member leaves the Plan with less than two years' qualifying service, they will be offered a transfer value of the full value of their Plan benefits, to take to another registered pension arrangement. Where a member does not select this option within the required timescales, they lose the right to any benefit under the Plan. This rule was clearly outlined in the Booklet.
- Letters were issued to Mr N on 9 October 2015 and 8 January 2016, clearly setting out the requirement to transfer his benefits, the timescale for doing so, and the consequence of not taking up the offer to transfer within the required

timescales. It is unfortunate that Mr N says he did not receive these letters, but this does not alter the Trustee's view on this matter.

- Mr N has said that after he left employment at RBS, he relocated to Leeds. However, the first letter was sent to him within a week of him leaving employment. In any case, it was Mr N's responsibility to provide RBS with details of his new address.
- As Mr N did not elect to transfer his benefit within the relevant period, he has lost the right to any benefit under the Plan. The Trustee is not authorised under the Plan Rules to reinstate his benefits.

Adjudicator's Opinion

19. Mr N's complaint was considered by one of our Adjudicators who concluded that no further action was required by RBS. The Adjudicator's findings are summarised in paragraphs 20 to 27.
20. Mr N's entitlement to benefits from the Plan can only be determined in accordance with the Plan Rules. According to Rule 7.2 and Rule 7.3, because Mr N left RBS with less than two years' qualifying service, the only option available to him was to transfer his entitlement in the Plan to another registered pension arrangement. This option had to be selected within the period specified by the Administrator. In this case, the Administrator required Mr N to respond or to complete a transfer by 9 July 2016. As he did not do this, Mr N forfeited his right to any benefits in the Plan.
21. Mr N claimed that RBS and the Administrator did not inform him that he needed to transfer his benefits. However, the available evidence shows that the Administrator sent him two notification letters to his known residential address, on 9 October 2015 and 8 January 2016. These letters warned Mr N about the consequences of not transferring his Plan benefits within a specific timescale. As Mr N did not respond to these letters or take the necessary action to transfer his benefits by the given date, he lost all entitlement to them.
22. Mr N argued that he did not receive these letters due to a change to his address. However, it was ultimately his responsibility to notify RBS or the Administrator of any change of addresses. In any case, since the letters were issued correctly to the most recent address Mr N had provided, neither RBS nor the Administrator could be held accountable for Mr N not receiving them.
23. In addition to the letters, Mr N was informed about his options through the Booklet. While Mr N has claimed that he was not made aware of the Booklet, on the balance of probabilities, it was more likely than not that RBS would have followed its standard practices and informed Mr N about the Booklet when he joined the Plan. In any case, as a Plan member it was incumbent on Mr N to ensure that he understood his responsibilities as a Plan member, and it was open to him to approach RBS or the

Administrator at any time, if he required any additional guidance or information about his Plan benefits.

24. In the Adjudicator's opinion, if Mr N believed his benefits had been preserved it was unreasonable that he had not monitored his pension for three years and only contacted RBS when his new employer asked him to join its pension scheme. Mr N ought reasonably to have queried his options upon leaving RBS' employment, particularly considering he could not have been certain about the status of his accrued benefits. It was unreasonable for him to have assumed that his benefits would remain invested in the Plan without seeking any confirmation from RBS or the Administrator.
25. There is no option in the Plan Rules for members with less than two years' qualifying service to receive a refund of their contributions. This is because contributions to the Plan are made through a salary sacrifice scheme. Such arrangements are set up in a way where an employee agrees to reduce their earnings by an amount equal to their pension contributions. In exchange, the employer agrees to pay the total pension contributions. So, these contributions are considered employer contributions and are not refundable.
26. HMRC's Employment Income Manual (EIM42785) clearly states that pension contributions made "under successful salary sacrifice arrangements continue to be regarded as employer contributions and not taxable on the employee". Taking all of this into account, the Adjudicator was of the view that Mr N was not entitled to a refund of any contributions.
27. The Adjudicator concluded that there had been no maladministration on the part of RBS or the Administrator. The Administrator, who was responsible for informing members of their entitlement to benefits in the Plan and the options available to them, adequately notified Mr N that he needed to transfer his benefits. RBS, as the Employer, facilitated these communications and thus fulfilled its obligations.
28. Mr N did not accept the Adjudicator's Opinion and the complaint was passed to me to consider.
29. Mr N was asked to comment on the Adjudicator's Opinion, but he did not provide any further comments or information.

Ombudsman's decision

30. Mr N has not provided any new information in response to the Adjudicator's Opinion and in the absence of any new evidence to consider, I can see no reason to reach a different outcome from that reached by the Adjudicator.
31. After carefully examining all the evidence, I find that RBS has acted appropriately and in accordance with the Plan Rules. While I understand Mr N's disappointment regarding the loss of his Plan benefits, RBS was only obligated to provide him with his available options when he left the Plan. I note that RBS discharged this

responsibility when it issued the letters on 9 October 2015 and 8 January 2016. The fact that Mr N moved addresses during this period is unfortunate, however, RBS could not have known this was the case if Mr N did not make it aware of his change in circumstance.

32. The Administrator's letters informed Mr N that he needed to transfer his benefits in the Plan, or else he would lose all entitlement to them. These letters were sent to Mr N's recorded address at the time and were not returned to sender. The onus was on Mr N to inform the Administrator or RBS of any change of address, so that any correspondence reached him. It would also have been prudent for Mr N to have arranged for his post to be redirected to ensure no correspondence went missing.
33. In addition, Mr N ought reasonably to have had knowledge of his Plan entitlement when he left RBS in 2016, so he ought to have queried the correct position regarding his benefits with the Administrator much earlier than 2019. I find that there has been no maladministration by RBS in this case.
34. I do not uphold Mr N's complaint.

Anthony Arter CBE

Deputy Pensions Ombudsman
31 August 2023

Appendix

Royal Bank of Scotland Group Retirement Savings Plan Rules

7.1 Preserved benefits

A Member who leaves Service without becoming entitled to immediate benefits **will** remain entitled to benefits under the Plan if he or she satisfies the preservation requirements (see Rule 7.3 (preservation requirements)).

The Trustee will provide retirement benefits for the Member, as described in Rule 5 (Member's retirement benefits), on the Member's 65th birthday. However, the Member may choose to start receiving benefits from:

7.1.1 a later date (but not later than the Member's 75th birthday);

or

7.1.2 if RBS consents, an earlier date (but not before the Member's 55th birthday, unless the Trustee is satisfied after receiving evidence from a registered medical practitioner that the Member is (and will continue to be) incapable of carrying on his or her occupation because of physical or mental impairment).

If the Member dies before starting to receive benefits under the Plan, death benefits will be provided as described in Rule 6.2 (benefits on death before retirement).

However, if RBS so directs, instead of providing benefits under the Plan, the Trustee will assure them to the Member by means of a transaction which satisfies the requirements of Regulation 6 of the Occupational Pension Schemes (Preservation of Benefit) Regulations 1991.

7.2 Members who are not entitled to immediate or preserved benefits

A Member who leaves Service without becoming entitled to immediate or preserved benefits may, regardless of the length of the Member's Qualifying Service, require the Trustee to provide a cash transfer sum in accordance with Chapter 5 of Part IV of the Pension Schemes Act 1993 (early leavers: cash transfer sums and contribution refunds).

If the Member does not select this option within the period notified to the Member by the Trustee for this purpose, the Member will not receive any benefits under the Plan, except a refund of the proceeds of his or her own voluntary contributions (if any) less tax at such rate as applies from time to time. RBS may require the Trustee to use the balance of the Member's Retirement Account to meet any liability of the Employers to contribute to the Plan or pay expenses.

7.3 Preservation requirements

A Member satisfies the preservation requirements if:

7.3.1 the Member leaves Service with at least two years' Qualifying Service;

or

7.3.2 a transfer payment in respect of the Member's rights under a personal pension scheme has been made to the Plan.