

Ombudsman's Determination

Applicant	Mrs R
Scheme	Standard Life Staff Pension Scheme (the Scheme)
Respondent	Standard Life (SL)
	Aptia UK Limited (Aptia)

Outcome

1. I do not uphold Mrs R's complaint, and no further action is required by SL or Aptia.

Complaint summary

2. Mrs R's complaint concerns the date on which she joined and left the Scheme. She also disputes the assertion from Mercer and SL that she chose to opt out of the Scheme in 2006, as opposed to when she left SL employment in 2007.

Background information, including submissions from the parties

3. In 1999, Mrs R started her employment with SL.
4. On 24 January 2000, Mrs R joined the Scheme, a final salary defined benefit arrangement. Mrs R has said that, at the time, she believed the Scheme operated as a non-contributory arrangement, so the membership did not pay any employee contributions.
5. On 2 August 2004, Mrs R signed an "agreement to salary sacrifice" form. In doing so, Mrs R agreed that from 16 November 2004 she would sacrifice 2% of her salary, increasing to 3.5% in November 2005 and then to 5% in November 2006. The opt in form explained that from 16 November 2007, it was expected that the 5% salary sacrifice would continue to provide benefits based on an accrual rate of 1/60th.
6. On 20 March 2006, SL received an online request to opt Mrs R out of the Scheme.
7. On 11 June 2007, SL wrote to Mrs R and provided her with a copy of her P45. It explained that her final salary would be processed and paid to her by 15 June 2007. Any shares she held in the SL share plan could be transferred into her own name or sold.

8. On 15 June 2007, Mrs R left SL employment via a career break.
9. On 26 August 2020, Mrs R telephoned Mercer, the Scheme's administrator, to query her pensionable service dates and her final pensionable salary. She explained that on SL's online portal her Scheme leaving date was 28 February 2006; however, she left SL employment on 15 June 2007. Her final pensionable salary was also lower than expected as, when she left the Scheme, her salary was in excess of £30,000.
10. On 8 October 2020, Mercer asked Mrs R to provide evidence to support her claims that her pensionable service/salary were incorrect.
11. On the same day, Mrs R responded to Mercer providing a number of HM Revenue and Customs (**HMRC**) documents which outlined her tax payments with SL, between 1992 to 2007. In the tax year 2006/07, her taxable salary was £33,906.59; she said that this should indicate what her pensionable salary was in previous years.
12. On 1 November 2020, Mrs R followed up on her email to Mercer of 8 October 2020, as she was yet to receive a response.
13. On 6 November 2020, Mercer told Mrs R that it was liaising with SL to query her pensionable service/salary. It would contact her again within five working days.
14. On 27 December 2020 Mrs R sent Mercer further evidence which said that a final pension payment was taken from her wages on 15 June 2007. Since 6 November 2020, she was yet to receive any communication from Mercer about her service/salary dates.
15. On 16 February 2021, Mercer informed Mrs R that it had located a document which indicated that she elected to opt out of the Scheme on 28 February 2006. It was, however, aware that she did not recall opting out of the scheme in 2006. It asked her to provide any leaving documentation that she was sent when she left SL in 2007.
16. On 17 February 2021, Mrs R told Mercer that she no longer retained any paperwork relating to her employment with SL. She did not recall opting out of the Scheme, let alone requesting and completing an opt out form. She did not obtain any financial advice on opting out.
17. Between February and April 2021, Mrs R continued corresponding with Mercer about the alleged discrepancy in her pension service and salary.
18. On 15 April 2021, Mercer informed Mrs R that the instruction to opt her out of the Scheme was received from her former employer, SL. Consequently, she needed to contact SL to query why she was opted out of the Scheme.
19. On 22 May 2021, Mrs R submitted a formal complaint to SL and explained that she did not agree that she opted out of the Scheme on 28 February 2006. She did not leave SL employment until 15 June 2007. She never sought, or took, any financial advice on the matter and held no records to suggest that she had opted out of the

Scheme. If she was opted out of the Scheme, she also queried what happened to the pension contributions she paid between February 2006 and June 2007.

20. On 19 July 2021, SL responded to Mrs R's complaint and explained that:-

- She elected to join the Scheme on 2 August 2004. The Scheme operated as a salary sacrifice agreement, so, she gave up part of her salary in exchange for SL making pension contributions on her behalf.
- Its records indicated that she opted out of the Scheme on 28 February 2006, with a letter of confirmation this being sent on 30 March 2006. Thereafter, her salary would have increased as she was no longer under the salary sacrifice agreement, and SL was no longer paying contributions into the Scheme on her behalf.
- Her payslips from 30 March 2006 would have shown that she was no longer having any salary sacrifice deductions taken from her monthly salary. The payslips would also have confirmed that she was a deferred member of the Scheme.
- SL would not have been in a position to offer advice on whether or not to opt out of the Scheme. If she was now claiming she did not intend to opt out, then she should have obtained financial advice at the time.

21. On 3 August 2021, Mrs R asked SL to double check the date she joined the Scheme, as she should have joined it in 1999, when her employment with SL began. She was unsure how she opted out of the Scheme, on 28 February 2006, when she was unaware that this was an option. It should provide evidence of the opt out form she signed, as well as any information that would have been sent out to her. She queried whether a change in her role, in 2006, might have affected her Scheme membership.

22. On 20 September 2021, SL responded to Mrs R and said:

- a letter dated 24 January 2000 was sent to her inviting her to join the Scheme. She did not, however, elect to join until 2 August 2004;
- as she was not a member of the Scheme between 1999 and 2004, neither she, nor SL contributed into the Scheme;
- in the event there was an error in her start date, herself, and SL, would need to make up any missing contributions;
- SL was not required to explain the consequences of opting out as it was unable, nor required, to provide advice;
- a change in her role, in 2006, would not have affected her Scheme membership;
- there was no reason to doubt SL's records, however, if she disputed any of the dates, it was her responsibility to provide evidence to support her assertions; and

- if she was unhappy with SL's final position, she should refer her complaint to the Financial Ombudsman Service (**FOS**).
23. On 3 October 2021, Mrs R submitted a data subject access request to SL, and Mercer, to obtain any and all information they held regarding her employment and pension benefits. Mr R also referred her complaint to the FOS.
24. On 24 January 2022, SL wrote to Mrs R and explained that:-
- It had recently double checked her start date for joining the Scheme with Mercer, and it was discovered that she actually joined the Scheme on 24 January 2000, not on 2 August 2004. This aligned with her contract of employment.
 - Her pension benefits under the Scheme would therefore be calculated with reference to a start date of 24 January 2000.
 - A copy of the opt out form that she signed on 28 February 2006 was provided to her. This confirmed that she chose to opt out of the Scheme and that Mercer's records were correct.
 - At the time, to opt out of the Scheme was through "self-service". So, she would have had to submit an online form or request a form from SL's human resources department to complete and return. SL held a copy of the online form that she completed to opt out of the Scheme.
25. It apologised for the time taken to resolve the matter and for the provision of conflicting information about her pensionable service start date.
26. On 1 January 2024, Aptia acquired Mercer's UK pensions administration business. Subsequently Mercer was renamed to Aptia.

Adjudicator's Opinion

27. Mrs R's complaint was considered by one of our Adjudicators who concluded that no further action was required by SL or Mercer. The Adjudicator's findings are summarised below:-
- SL agreed that, following a review of its records, Mrs N joined the Scheme on 24 January 2000, not 2 August 2004 as it originally believed. SL did not accept that Mrs R remained a member of the Scheme until 15 June 2007. SL provided a copy of an online opt out form, that was completed on 28 February 2006, to support its position.
 - Mrs R did not agree, or recall, opting out of the Scheme in 2006 as she did not receive any advice to do so. She submitted that it would have been illogical for her to opt out of the Scheme when she remained in SL employment up until 15 June 2007.

- Due to the time that had since passed, there was limited information available regarding Mrs R's claim that she did not opt out of the Scheme. There were no payslips for the period between 2006 and 2007, nor was there any documentation available, that Mrs R would have been sent, after she opted out of the Scheme.
- The Adjudicator did not dispute Mrs R's recollection that she did not opt out of the Scheme; however, it was for her to prove that she did not, with sufficient evidence. Based on the evidence provided by SL, it was clear that an opt out form for Mrs R was completed on 28 February 2006. Furthermore, SL only held details of Mrs R's pensionable and non-pensionable salary for the period between 24 January 2000 and 16 March 2006.
- The letter Mrs R received from SL when she left SL's employment listed all relevant information, such as when she would receive her final salary payment and what would happen to any SL shares. It did not mention the deferral of her benefits, which the Adjudicator would have expected such a letter to reference. This indicated that she left the Scheme prior to leaving SL employment.
- The evidence provided by SL does support SL's belief that Mrs R, more likely than not, opted out of the Scheme in 2006. In lieu of the provision of any contemptuous evidence from Mrs R to suggest otherwise, it was the Adjudicator's view that Mrs R's pensionable dates within the Scheme were from 24 January 2000 until 28 February 2006.

28. Mrs R did not accept the Adjudicator's Opinion, and the complaint was passed to me to consider. I agree with the Adjudicator's Opinion and note the additional points raised by Mrs R, which are:-

- It was illogical and near impossible for her to prove that she did not opt out of the Scheme. It was SL and Mercer who insisted that she opted out of the Scheme on 28 February 2006, so it should be up to them to provide positive, verifiable evidence of the actions she took to opt out.
- The evidence provided by SL and Mercer that she opted out on 28 February 2006 was a screen shot of an internal record. It was not signed by herself, nor was there any evidence that she had personally accessed the Scheme system to opt out. There was no time stamp on the form, no confirmation of submission, receipt or confirmation. Nor was there any follow up correspondence available confirming that she had opted out.
- She did not receive any advice to opt out of the Scheme given that opting out was a significant financial decision. She did not know that opting out of the Scheme was possible or advisable. She would have thought that in opting out she would have received contemporaneous communication to confirm her actions.
- She did not accept that salary sacrifice deductions being absent from her payslips from February 2006 confirmed that she opted out of the Scheme. Missing deductions from her payslips could have been caused by administrative errors.

- SL and Mercer previously insisted that she did not join the Scheme until 2 August 2004. She was told that it was for her to provide evidence to demonstrate that she joined the Scheme at an earlier date. However, during the course of her complaint SL and Mercer discovered that she had in fact joined the Scheme on 24 January 2000. This undermined the credibility of their records and their accuracy.
- SL and Aptia were adamant that she only opted into the Scheme on 2 August 2004 and that there was “no reason to doubt [SL’s] records”. The fact that it was discovered that their records were incorrect should prove that the date she opted out of the Scheme could also be incorrect.
- She had no recollection, or reason, to opt out of the Scheme. She remained employed by SL until June 2007 and there was no documented evidence that she voluntarily opted out of the Scheme.

Ombudsman’s decision

29. Mrs R’s complaint concerns the date on which she left the Scheme and became a deferred member. She believes that her date of leaving should be the date she left SL employment, which was 15 June 2007. However, SL and Mercer have said that her date of leaving is 28 February 2006, following receipt of an opt out form.
30. Mrs R refutes this and submits that she has no recollection of opting out of the Scheme, nor did she take any advice to do so. She believes that the validity of her date of leaving should be scrutinised due to how her date of joining the Scheme being originally recorded as 2 August 2004, which was subsequently revised to 24 January 2000.
31. It has been 19 years since Mrs R allegedly opted out of the Scheme, on 28 February 2006, so there is limited information available. SL has provided copies of Mrs R’s member print out, as well as a confirmation of an online opt out form.
32. I appreciate Mrs R’s comments that, as SL is asserting she opted out of the Scheme on 28 February 2006, the burden of proof is on SL to provide verifiable evidence that she did. While I do not doubt Mrs R’s comment that she does not recall opting out of the Scheme, SL has, in this case, provided evidence to support its statement/position. Consequently, the onus is now on Mrs R to demonstrate that SL’s evidence is incorrect, which she has been unable to do beyond an assertion that she did not opt out of the Scheme, or that she does not recall doing so.
33. The member print record only provides details on Mrs R’s basic salary from 24 January 2000 to 16 March 2006. Likewise, it also only has records of Mrs R’s salary sacrifice contributions from 16 November 2004 until 16 January 2006. There is no record of Mrs R’s salary, or contribution deductions beyond 28 February 2006. I find that this, in addition to the opt out confirmation form of 28 February 2006, makes it reasonable to infer that it was, more likely than not Mrs R opted out, or was opted out,

of the Scheme in February 2006. This is irrespective of whether or not Mrs R's recalls doing so.

34. I appreciate that Mrs R has suggested that all of the information regarding her opting out of the Scheme should be provided alongside confirmation letters of the opt that would have been sent to her at the time. I agree; however, as I have said, due to the time that has passed much of the communications that would have been sent at the time are no longer available. The lack of this information does not necessarily amount to maladministration, nor does it prove that Mercer's and SL's records are inaccurate.
35. Mrs R has called into question the accuracy of SL and Mercer's record keeping given the error in what it believed to be the date she joined the Scheme. It is understood that Mrs R is sceptical of the accuracy of the other information she was provided by SL and Mercer. However, having reviewed the information submitted, there is, in my view, nothing to indicate that SL is incorrect in asserting she left the Scheme on 28 February 2006, in spite of her previous experiences.
36. In conclusion, I consider that the available evidence suggests that Mrs R did opt out of the Scheme on 28 February 2006, and that Mrs R has not provided sufficient evidence to counter this.
37. I do not uphold Mrs R's complaint.

Dominic Harris
Pensions Ombudsman

5 September 2025