

Ombudsman's Determination

Applicant	Mr S
Scheme	Armed Forces Pension Scheme (the Scheme)
Respondent	Ministry of Defence (MoD)

Outcome

1. I do not uphold Mr S' complaint and no further action is required by MoD.
2. My reasons for reaching this decision are explained in more detail below.

Complaint summary

3. Mr S is unhappy because MoD has said he is not entitled to benefits under the Scheme. In particular, MoD says he has never been eligible for Scheme membership.
4. Mr S is also unhappy because he has been underpaid approximately £1,000 by MoD.

Background information, including submissions from the parties

5. Between 1964 and 2011, Mr S served as a Reservist with the Territorial Army. For the whole of this time, he was employed and paid on the basis of Man Training Days (**MTD**).
6. MTD guidelines stated that any Reservist working for more than 220 days a year should be offered employment for a year as a regular soldier with Full-Time Reserve Service (**FTRS**). Mr S says there were a number of years where he worked for more than 220 days. However, he was never offered a position with FTRS.
7. In September 2010, Mr S requested a pension forecast. However, he was told that he had not accrued any pension benefits, as only Reservists serving with FTRS accrue pension benefits. He raised a complaint and MoD subsequently confirmed that he had no entitlement under the Scheme regulations due to his employment status.
8. Mr S believes UK and EU employment laws have been broken. On 15 December 2016, he informed the Office that he believes the government recently changed its policy in relation to Reservists and their pension entitlement. He believes Reservists are now entitled to a pension, in line with this.

Adjudicator's Opinion

9. Mr S' complaint was considered by one of our Adjudicators who concluded that no further action was required by MoD. The Adjudicator's findings are summarised briefly below:
- The underlying issue to Mr S' complaint is an employment matter, which this Office cannot look at. In particular, Mr S says he ought to have been offered a role with FTRS. If he had been, he would have been a Scheme member. However, this Office cannot look at whether he ought to have been offered a role with FTRS.
 - As Mr S is not a Scheme member, he is not entitled to any benefits under the Scheme. MoD has therefore acted reasonably in not providing him with any benefits.
 - Mr S has not provided evidence that the government's new policy is retrospective. In any event, this has not been raised with MoD and, if Mr S wanted to explore this point further he would have to raise it with MoD in the first instance.
 - Mr S' complaint about unpaid annual leave is an employment issue, which this Office cannot look at.
10. Mr S did not accept the Adjudicator's Opinion and the complaint was passed to me to consider. I agree with the Adjudicator's Opinion, summarised above, and I note that Mr S has not provided any additional comments in support of his appeal.

Ombudsman's decision

11. MoD has confirmed that Mr S has never been a Scheme member. This is because he has never served with FTRS, and he would have needed to have done so in order to become a Scheme member. As such, I am satisfied that he has no benefits under the Scheme.
12. The fact that Mr S believes he ought to have been offered a place with the FTRS is not something I can consider. Similarly, I cannot examine his other complaints because they either relate to employment matters, or have not yet been raised with MoD.
13. Mr S has stated that he has tried to pursue this matter by other means. However, whilst I sympathise with him, I cannot say MoD has done anything wrong in relation to this pension complaint.
14. Therefore, I do not uphold Mr S' complaint.

Anthony Arter

Deputy Pensions Ombudsman
23 January 2017