

Ombudsman's Determination

Applicant	Dr I
Scheme	Leonardo Electronics Pension Scheme (the Scheme)
Respondents	Leonardo Electronics Pension Scheme (Trustee) Ltd (the Trustee) Leonardo MW Ltd (the Employer)

Outcome

1. I do not uphold Dr I's complaint and no further action is required by the Trustee or the Employer.
2. My reasons for reaching this decision are explained in more detail below.

Complaint summary

3. Dr I has complained that his benefits from the Scheme are lower than they should be, due to the way in which his benefits are calculated across two linked pension schemes.

Background information, including submissions from the parties

4. Dr I was employed by BAE Systems until 2005, and he was a member of the BAE Systems pension scheme (**the BAE scheme**) between 1981 and 2005. Dr I's employment was then transferred to the Employer in April 2005, at which time Dr I became a member of the Scheme. Pension entitlements were not transferred from the BAE Scheme to the Scheme. Dr I's benefits within the BAE scheme were deferred at this time. The deferred BAE scheme benefits are revalued in line with inflation. The benefits under the Scheme are calculated based on pensionable service in both schemes and final salary with the Employer from which a deduction is made which is equal to the amount payable from the BAE Systems scheme. This is known as the 'make whole' arrangement. Dr I was sent annual forecasts for his pension benefits within the Scheme. These explained that the projected benefit payable was calculated by deducting a value equivalent to the revalued BAE Systems Benefit from the 'gross' pension which included both the Selex and BAE pensionable service.

5. In February 2015 The Trustee issued a bulletin which highlighted that if the benefits within the BAE scheme were large and there was a period of high inflation, not matched by salary increase, it could reduce the benefits payable from the Scheme.
6. Dr I raised a complaint when he received a forecast as at April 2015. He was unhappy that the forecasted figures for the net Scheme benefits at age 65 had reduced over the years. As an example, in 2008 the net figure at age 65 was forecast as £12,673 per annum and the 2014 figure was £7,851 per annum. He felt that the reduction in the net Scheme benefits forecasts from age 65 amounted to a total financial loss to him of around £150,000.
7. The Trustee did not uphold Dr I's complaint. The main points of its argument are listed below:-
 - The pension forecast was for illustration purposes only and did not confer any rights.
 - The value of Dr I's membership is better reflected in the growth of the values at each renewal date, resulting from each additional year of pensionable service; the gross figure at renewal has increased each year.
 - With the benefit of hindsight it could be argued that a higher pension could have been possible if there was no link between the two schemes, but, had Dr I secured more growth in his pensionable salary, the figures would have increased.
 - It was not possible for the Employer to know in 2005 what pay increases would be achieved relative to inflation. The Employer's assumption was that pay rises would likely exceed inflation on average.
 - Dr I elected to retire from the Scheme at NRD (May 2016) and his benefits were calculated in accordance with the Rules of the Scheme.

Adjudicator's Opinion

8. Dr I's complaint was considered by one of our Adjudicators who concluded that no further action was required by the Trustee or the Employer. The Adjudicator's findings are summarised briefly below:
 - The manner in which the benefits are calculated across the two schemes is complex, however there is no evidence of maladministration.
 - The benefits payable across the two schemes is balanced, so the benefits from the Scheme will reduce if the benefits due from the BAE scheme are higher.
 - Dr I is in receipt of the benefits to which he is entitled and as such there is no financial loss.

- Dr I focused on the forecasted figures for net payable at 65, however the Trustee's explanation that this figure should not be reviewed in isolation was reasonable.
9. Dr I did not accept the Adjudicator's Opinion and the complaint was passed to me to consider. Dr I provided his further comments which do not change the outcome. I agree with the Adjudicator's Opinion, summarised above, and I will therefore only respond to the key points made by Dr I for completeness.
10. Dr I responded to the Adjudicator's Opinion and made the following comments:
- The link between the schemes was not made known to the employees before the 2015 bulletin.
 - Dr I's decision to continue paying contributions into the Scheme was made without the full facts, so the pension was mis-sold.

Ombudsman's decision

11. Dr I considers that his pension has deteriorated year on year despite his continuing to pay contributions and that the contributions were in effect wasted. I do not agree. The contributions have purchased a benefit. The Scheme has confirmed that, as at September 2015, the transfer value of Dr I's benefits was £119,000, compared with total member contributions of £40,915. Dr I has also had access to life insurance and ill health cover since 2006.[.]The forecasts that Dr I received over the years stated that the figures were estimates, and based on certain assumptions, so the figures were not promises of future payments. He is only entitled to receive benefits calculated according to the rules of the Scheme. Because the calculation required is sensitive to whatever future increases are made to the deferred benefits within the BAE scheme, it is possible that the net Scheme benefit projected at retirement age will fall year on year, as happened in Dr I's case. Dr I has calculated his loss by reference to the difference between what was projected and what he received at retirement. Because he was not entitled to the projected benefit, he has not suffered a financial loss as a result of not being awarded benefit at that level.
12. I have considered the argument that the link between schemes was not made known to employees prior to 2015. The Scheme asserts it has disclosed its benefit structure in many different ways, through scheme booklets, on its website and in newsletters. The effect of the rule was also apparent on the face of the benefit illustrations year on year. Although Dr I may not have focussed on the point until 2015, I am satisfied that the benefit structure was disclosed to members generally. The fact that over the years the Scheme has gone to greater lengths to explain the impact of the benefit calculation rule on members in Mr Dr I's situations does not imply that it failed to provide basic information about the scheme in the first place.
13. Dr I referred to figures 1 and 2 contained in the IDRP decision which he says he first saw in a newsletter from 2012. He says that figure 1 reflects his understanding of how the Scheme was intended to operate. He considers that members were not informed

about the rules of the Scheme as shown in figure 2. However, I am satisfied that these figures show how the same rules operate in two different earnings scenarios. They do not indicate a failure to explain how the benefit rules work and do not imply any undisclosed change in the rules.

14. Dr I has also said that he was mis-sold the pension. This is not possible as the Scheme was not 'sold' to him at all. I accept that Dr I could have chosen not to join the Scheme, or to opt out of the Scheme, but there is no evidence that he was misled into joining it.
15. There is also no evidence from which I can conclude that he would probably have decided to opt out of the Scheme if the benefit calculation method had been explained to him in greater depth at an earlier time. I bear in mind that the figures were subject to change up until the point of his retirement, nobody could have told him with certainty what they would be and the benefits which he was accruing were of significant value. I also bear in mind that the benefit illustrations showed the falling figure and he did not react to that disclosure.
16. Lastly, there is also no evidence that he would have obtained a higher benefit elsewhere and therefore no evidence that he has suffered financial loss because of his decision not to opt out. .

Whilst the way in which benefits are calculated across the two schemes is intricate, I conclude there is no evidence of maladministration or misrepresentation causing financial loss or other injustice.

17. Therefore, I do not uphold Dr I's complaint.

Karen Johnston

Deputy Pensions Ombudsman
4 August 2017