

Ombudsman's Determination

Applicant	Mr E
Scheme	Parliamentary Contributory Pension Scheme (the Scheme)
Respondent	Trustees of the Parliamentary Contributory Pension Fund (the Trustees)

Outcome

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

Complaint summary

3. Mr E has complained that the Trustees failed to make him aware of the consequences of paying the maximum level of contributions into the Scheme.

Background information, including submissions from the parties

4. In May 2010, Mr E was elected as a Member of Parliament (**MP**). Following this, he should have been automatically entered into the Scheme by the Independent Parliamentary Standards Authority (**IPSA**). However, due to an oversight, he was not.
5. On 14 May 2010, a leaflet entitled 'Your benefits in the PCPF' was issued to all new MP's summarising the benefits available under the Scheme. The Trustees say this was posted to Mr E at his House of Commons address.
6. On 27 May 2010, a letter and guidance leaflet entitled 'Your pension – your choice' was circulated to all MP's. The Trustees say this was posted to Mr E at his House of Commons address.
7. In June 2010, an e-booklet was emailed to all MPs, which set out what the terms "maximum benefits" and "retained benefits" meant. With regard to the former, it was explained that the Scheme's rules limit the contributions a member can pay and the benefits which may be built up. In respect of retained benefits, the e-booklet said that this concerned the member's pension entitlement accrued in another arrangement.
8. In October 2010, Mr E says he had a chance conversation with a fellow MP in which he learnt that he could join the Scheme. Upon realising this, he visited the Pensions

Unit in the House of Commons and asked to be enrolled. He says the Pensions Unit apologised that he was missed off and pension contributions were collected, with his membership being backdated to May 2010.

9. In 2015, Mr E made enquiries regarding taking his pension benefits. From this, it transpired that the final benefits to be paid by the Scheme would be restricted due to the value of his retained benefits. Mr E subsequently raised this with the Trustees.
10. On 22 June 2015, Mr E's independent financial adviser (**IFA**) contacted the Scheme's administrator, RPMI, on his behalf with respect to his ongoing concerns. He said: -
 - The letter from May 2010 stated that Mr E had been automatically enrolled into the Scheme. As this was not the case, it was feasible that the information triggered by this process was not sent to Mr E.
 - Had Mr E received the May 2010 communications, he would have made enquiries as to why no pension deduction had been taken from his first payslip.
 - Had Mr E received any of the information purportedly sent to him, he would have sought financial advice in view of his preserved pensions, and opted not to contribute at the highest level.
 - They were not challenging the Scheme's rules but wanted the actuarial department to calculate the contributions Mr E had made over and above what was required to achieve the level of pension benefits he was soon to receive, and; refund the excess contributions to him plus the loss of investment interest.
11. On 29 June 2015, RPMI responded saying that all new Members were sent the 'Your Pension, Your Choice' communication which in Mr E's case was re-sent to him. This contained personalised information on retained benefits and contribution levels. Hence, it felt that sufficient information was provided to Mr E on this matter.
12. The complaint was subsequently raised under the Scheme's two stage Internal Dispute Resolution Procedure (**IDRP**).
13. On 18 December 2015, the Secretary to the Trustees responded under stage one of the IDRP and stated that: -
 - Due to an error, Mr E was not automatically entered into the Scheme. However, there was no detriment to Mr E as a result of the error as his membership was backdated.
 - The IPSA error was unconnected to the process by which communications were sent to new members, therefore although Mr E had not been automatically enrolled into the Scheme, it was no indication that these communications were not sent.
 - New members generally had three months from the date of the election to switch to a lower contribution rate but no deadline was given to Mr E when the 'Your pension - your choice' guidance was sent to him in October 2010.

- Also in October 2010, Mr E attended a meeting with the Pensions Unit. It was unlikely that the member of staff who met with Mr E did not emphasise the matter of retained benefits.
 - Mr E's IFA had requested a refund of excess contributions. There was no provision within the rules for a refund in these circumstances. The complaint could not be upheld.
14. On 3 February 2016, Mr E contacted the Trustees saying that he wished to appeal the IDRPs stage one decision. He said there was no "face to face meeting" with the Pensions Unit. Instead, he "walked across to the Pensions Unit and asked to be enrolled." The Pensions Unit asked what level of contributions he wished to pay, to which he replied the maximum. Had he been made aware of the consequences of paying higher contributions, he would have refrained from doing so, and there was no benefit in his paying these.
15. On 5 April 2016, the Trustees responded under stage two of the IDRPs. They said: -
- The main issue was whether sufficient information was made available to Mr E when choosing his contribution level. The Trustees were satisfied that the communications contained the information necessary to make him aware of the matter of retained benefits.
 - Mr E had commented that these letters were addressed to his London office, but this was standard procedure.
 - The Pensions Unit's records evidenced these mailings being sent to members.
 - It was reasonable to believe that had Mr E not received any literature about the Scheme, he would have sought to obtain this following receipt of the 2011 annual report, which publicised the availability of scheme booklets.
 - In regard to Mr E attending the Pensions Unit, they deny that a member of the team would have asked for a decision on paying pension contributions or arrears there and then, without reference to the Scheme's administrators.
16. Mr E brought his complaint to this Office for an independent review.
17. On 22 September 2016, in its formal response, the Trustees' solicitor made the following comments: -
- The Trustees have acted in accordance with the Scheme's rules in determining the level of benefits payable to Mr E.
 - If the value of the member's Scheme pension plus retained benefits is greater than the value of two thirds of final salary at retirement, the rules of the Scheme limit the member's benefit entitlement to two thirds of final salary less retained benefits.
 - The key documents had been sent to Mr E and the Pensions Unit took extra care when sending the October 2010 letter by enclosing the previously sent documents. Hence, the Trustees had not acted in breach of their duties under the Scheme.

- It was not the Trustees who deducted the contributions paid by Mr E but IPSA. The Trustees did not have the power to refund contributions to members which had lawfully been deducted by IPSA and paid into the Scheme.

Adjudicator's Opinion

18. Mr E's complaint was considered by one of our Adjudicators who concluded that no further action was required by the Trustees. The Adjudicator's findings are summarised briefly below: -

- The Trustees provided a mail merge list in relation to the labels applied to a summary leaflet regarding the Scheme as evidence that such information was sent to Mr E, whose name was on this list. However while these were sent, there was a possibility that there was an issue in their distribution.
- Mr E only began contributing to the Scheme in October 2010, which could suggest that he did not receive the information he was sent. Equally, it may be that he disregarded the information on the assumption that he was not eligible to contribute.
- It was not possible to say whether, on the balance of probabilities, Mr E received any of the information sent to him in 2010.
- Similarly, although it was not disputed that Mr E visited the Pensions Unit to start his contributions, the detail of this encounter was contested, and it was difficult to establish the facts without a written record.
- However, in October 2010, Mr E joined the Scheme having become aware of his eligibility and commenced paying contributions. It would have been reasonable for him to have sought information about the Scheme at that point, where, as he contends, such information had not been forthcoming.
- Mr E had joined a defined benefit scheme, which one could assume involved a number of rules. It would have been reasonable for him to expect to receive information on the Scheme as a matter of course, especially given that Mr E had been a member of other pension schemes. Furthermore, had Mr E's conversation with the Pensions Unit been as brief as he recalls, it was surprising that he did not seek further information on the range of contribution rates available or the accrual rate attached to these.
- Therefore, in the Adjudicator's opinion, the Trustees have not acted in maladministration.

19. Although the Trustees accepted the Adjudicator's Opinion Mr E did not and his IFA has made the following comments: -

- The Adjudicator's Opinion offered several assumptions which could not be proved or disproved.
- The Adjudicator had suggested that that it would have been reasonable to expect Mr E to receive information on the Scheme. Mr E was a very busy and

active MP and he simply trusted that he would be looked after by the Parliamentary support team.

- Where there were so many “ifs and buts” it would be unfair for Mr E to lose out financially. It would be appropriate for the funds, which did not pay for additional pension, to be refunded to him together with lost investment growth. The Scheme should not benefit where Mr E had lost financially; a fair outcome would be to ensure neither party had lost out or gained.

20. The complaint has been passed to me to consider. I agree with the Adjudicator’s Opinion and I will therefore only respond to the key points made by Mr E for completeness.

Ombudsman’s decision

21. It is unclear whether Mr E received the information sent by the Scheme, which would have provided him with the information required to make an informed decision on the appropriate level of contributions to pay.
22. I appreciate Mr E’s frustration in having paid contributions in excess of the maximum benefit payable to him and can sympathise with the fact that he made decisions in the matter with the best intentions, without realising the ramifications.
23. However the remedy which Mr E is seeking, a refund of contributions, is not something which the Trustees have the power to direct in this instance.
24. Mr E also feels that the Trustees failed in their responsibility to bring the appropriate information to his attention. Yet, the evidence shows that in all likelihood the information was issued, even if it was not received. In addition, there is no evidence to suggest that Mr E was misinformed by the representative in the Pensions Unit. Hence, I am unable to make a finding of maladministration.
25. Therefore, I do not uphold Mr E’s complaint.

Anthony Arter

Pensions Ombudsman
21 December 2017