

Ombudsman's Determination

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| Applicant | Mr K |
| Scheme | Atos (Sema) Pension Scheme (the Scheme) |
| Respondents | The Trustees of the Atos (Sema) Pension Scheme (the Trustee), Xafinity Consulting Limited (Xafinity) |

Outcome

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

Complaint summary

3. Mr K's says the Trustee and Xafinity failed to keep adequate membership records, mishandled his enquiries, and unreasonably delayed dealing with his complaint.

Background information, including submissions from the parties

4. On 1 August 1979, Mr K joined the CAP Group Limited's employ. On 20 January 1984, Mr K, (then age 30), left the Scheme before completing 5 years' pensionable service.
5. Mr K's member contributions to the Scheme amounted to £965.
6. On 20 January 1984, Mr K was asked to confirm his preferred pension options: a refund of his (net) contributions, a deferred pension based solely on his contributions; or a transfer of his contributions. The memo advised the option of either a deferred pension or transfer value if he had been with the company more than 5 years and had reached age 26.
7. Shortly after leaving the Scheme, Mr K says that he received a statement of preserved benefits which advised a pension of £777 per annum (the **1984 Statement**).
8. The Trustee says it has been unable to establish how the (then) Actuary determined what amount was equal to the aggregate of Mr K's contributions.

9. The Trustee says it would have been usual practice at the time to compare the 'value for money' pension with the Guaranteed Minimum Pension (the **GMP**) and for the deferred pension to be the higher of the two.
10. Mr K says it is very likely that he failed to notify the (then) Scheme administrators of his subsequent change of address.
11. In January 2013 Mr K attained age 60.
12. In August 2013, Mr K was contacted by a tracing service on behalf of Xafinity, the current administrators of the Scheme.
13. In June the following year, Mr K was asked to complete a late retirement option form.
14. Mr K says he was subsequently given conflicting information about the age at which he could retire and refused his pension on the basis that it was entirely made up of GMP and therefore payable from age 65.
15. Mr K says Xafinity and past administrators failed to keep adequate records of his pension contributions. There are no records of his contributions when the Scheme was contracted out of the State second pension, and when it was contracted back in.
16. The Trustee acknowledges that there are some issues with the Scheme data. It says that this is not uncommon especially given the age of the Scheme. The Trustee says while Xafinity had no record of Mr K's contributions, it does not mean that he has lost out on part of his pension entitlement.
17. Mr K says Xafinity and the Trustee failed to provide him with Scheme booklets dating back to 1983, or details of what his pension would otherwise have been at age 60, had his pension come into payment at that time. Mr K says without these details he is unable to compare his pension with the pension quoted in the 1984 Statement.
18. Mr K says Xafinity excessively delayed providing him with details of the Scheme's formal complaint procedures despite his repeated requests. Mr K says Xafinity mishandled his other enquiries and delayed replying to his correspondence.
19. In October 2016, after Mr K complained about how his pension had been calculated, The Trustee instructed Xafinity to pay him a pension, based on the pension advised to him in the 1984 Statement - backdated to age 60. The Trustee says it is satisfied that Xafinity has now carried this out.
20. Mr K accepts that his complaint relating to his pension has now been resolved. He says his pension payments are now up to date, but he would like an independent view on whether the initial decision, to refuse him his pension before age 65, was correct.
21. The Trustee accepts that Mr K's original application under stage two of (the **IDRP**) did not reach the Trustee until after he wrote to the secretary to the Trustee (the **Secretary**). The Trustee says, in view of this, it has updated the IDRP so that

applications under stage two are sent directly to the Secretary. The Trustee acknowledges that the level of service Mr K received from Xafinity fell short of the standards set out in its service level agreement and well below the Trustee's expectations.

22. Mr K says to put matters right he should be compensated for the distress and inconvenience that was caused to him. Mr K says he would also like a formal review of the administration of the Scheme carried out.
23. In June 2017, Xafinity paid Mr K £500 in compensation for distress and inconvenience. Mr K says the payment was solely redress for the delays on the part of the Trustee.

Adjudicator's Opinion

24. Mr K's complaint was considered by one of our Adjudicators who concluded that no further action was required by either the Trustee or Xafinity. The Adjudicator's findings are summarised briefly below:
 - The Pensions Ombudsman does not have the power to direct that the Trustee undertake a formal review of the administration of the Scheme.
 - An Ombudsman would not look to review the initial decision to refuse Mr K his pension from age 60, because a remedy for that aspect of his complaint has already been provided.
 - Only in exceptional circumstances would compensation for financial loss include costs in bringing a complaint to this office.
 - Mr K has received £500 for non-financial injustice. The compensation paid is reasonable in the circumstances.
25. Mr K did not accept the Adjudicator's Opinion and the complaint was passed to me to consider. He has provided his further comments but these 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 Mr K for completeness.

Ombudsman's decision

26. Mr K says his complaint should be investigated in relation to the various issues he has raised with his office.
27. Mr K says the total number of failures he has highlighted, indicates to him that other members, and members of any associated schemes, may possibly have been inconvenienced and/or disadvantaged by Xafinity. Mr K says these failings should be of considerable concern to a Pensions Ombudsman.

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28. Mr K says the issues with payment of his pension could have been avoided, and that there were excessive delays in dealing with his complaint.
29. I note that the decision not to pay him a pension prior to age 65 was reversed before he contacted this office. I find no evidence of outstanding financial injustice in relation to that aspect of his complaint.
30. Turning now to compensation for non-financial injustice. I acknowledge that Mr K has raised a number of issues relating to Xafinity's mishandling of his benefits on retirement, and his subsequent enquiries. However, awards for significant distress and inconvenience are modest, starting at £500. They are not penalties. I consider that the award of £500 already made is sufficient.
31. I have no power to investigate inconvenience or disadvantage which may have been caused to members other than the complainant.
32. Therefore, I do not uphold Mr K's complaint.

Karen Johnston

Deputy Pensions Ombudsman
18 August 2017