

Ombudsman's Determination

Applicant	Mr Y
Scheme	Royal Mail Pension Plan (the Plan)
Respondent	Royal Mail Pensions Trustees Limited (the Trustee)

Outcome

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

Complaint summary

3. Mr Y's complaint concerns him being contracted-out of the additional State Pension. He believes he will be financially worse off, at State Pension Age (**SPA**), because he was contracted-out.

Mr Y also believes that his guaranteed minimum pension (**GMP**), has been incorrectly calculated, because his GMP is lower than the estimated contracted-out pension equivalent (**COPE**), that will be deducted from his additional State Pension.

Background information, including submissions from the parties

4. Mr Y joined the Plan in 1996 and his normal retirement age (**NRA**) was 60. At the time he joined the Plan, it was contracted-out of the additional State Pension.
5. In 2004, Mr Y transferred his deferred benefits from a previous occupational pension scheme (**OPS**) into the Plan. The value of the benefits he transferred was £52,806. Of this amount, £15,988.96 was required to fund his GMP entitlement. At the time of the transfer, Mr Y was informed that his GMP in the Plan, would be revalued under the Social Security Administration Act 1992 Section 148 (**Section 148 Orders**).
6. In February 2017, Mr Y received a letter from Her Majesty's Revenue and Customs (**HMRC**), informing him of his estimated State Pension. The letter also informed Mr Y that as he was a member of a contracted-out OPS, a COPE would be deducted from his State Pension. The letter informed Mr Y that his estimated COPE was £85.92 per week. However, the letter also informed Mr Y that "...his contracted out workplace or personal pension scheme(s) should include an amount of pension which will, in most

cases, be equivalent of the additional State Pension [he] would have been paid had [he] not been contracted out.”

7. Following receipt of HMRC’s letter, Mr Y complained to the Trustee through the Plan’s internal dispute resolution procedure (**IDRP**), as he believed he would incur a financial loss, at SPA because he was contracted-out of the additional State Pension.
8. Mr Y’s complaint was not upheld at either stage of the IDRP. In the IDRP stage two decision, dated 26 February 2018, the Trustee explained why contracting out had been introduced. The Trustee also noted that HMRC’s factsheet stated that “... the COPE amount shown is based on all your schemes and covers all the years you were contracted out.” Therefore, the COPE deduction was not entirely due to his membership in the Plan.
9. The Trustee said:

“The maximum amount of the new State pension is £159.55 per week. Your forecast suggests an amount due to you of £122.92 per week because of your contracted-out employment. The value of the pension from the Plan (which includes benefits transferred from former periods of employment) substantially exceeds the level of foregone additional State pension. In other words, you are receiving your GMP (for 1978-1997) and the ‘reference scheme’ benefits for 1997 – 2016 within the overall amount being paid by the statutory scheme and the Plan. Whilst we will not know the value of the GMP element of the contracted-out benefit until you reach age 65 and we are informed by the DWP, PSC have estimated the value to be £1,821 per annum...”
10. Dissatisfied with the IDRP decisions, Mr Y referred his complaint to this Office. He said that an urgent reconciliation needed to be completed between his COPE and GMP figures, as he believed his COPE and GMP figures should be the same.
11. In response to Mr Y’s complaint, the Trustee gave a background of the events that led to the complaint and provided details of the pension Mr Y is currently in receipt of from the Plan. The Trustee also said:

“Since the cessation of contracting out, pension schemes have been conducting reconciliation work so that provisional GMP figures are checked against the actual GMP information held by HMRC...During the course of this complaint ... the Pensions Service Centre [checked] the reconciliation work and they confirmed that having checked the data held on the pension administration system with that held by HMRC, the two do indeed match...”
12. The Trustee also provided a copy of the Plan’s contributions history for Mr Y as well as a copy of the contributions history HMRC has for Mr Y.
13. Following the Trustee’s response to Mr Y’s complaint, there was further correspondence between The Pensions Ombudsman, Mr Y and the Trustee.

Adjudicator's Opinion

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

- Mr Y believes he will incur a financial loss because he was contracted-out of the additional State Pension. This is because he believes that the COPE deduction which will be applied to his State Pension at SPA, should be equivalent to the GMP he is entitled to from the Plan. He has been informed that his estimated COPE is approximately £4,467 per annum but his estimated GMP is £1,871 per annum. Consequently, he believes that his GMP has not been revalued correctly.
- The Adjudicator explained that GMP and COPE are not one and the same and that Mr Y could only accrue GMP benefits between 1978 and 1997. However, the COPE deduction was accrued throughout the whole period Mr Y was contracted-out of the additional State Pension. Therefore, the COPE deduction is not equivalent to the GMP Mr Y is entitled to from the Plan.
- At the time that Mr Y joined the Plan, he was informed that the Plan was contracted-out of the additional State Pension. This was reconfirmed to him, when he transferred his benefits from his previous OPS, to the Plan in 2004. Therefore, Mr Y could not have joined the Plan and remain contracted-in to the additional State Pension.
- As a result of being contracted-out of the additional State Pension, Mr Y paid lower National Insurance contributions and he accrued benefits in the Plan. The pension Mr Y accrued while being a member of the Plan should include an amount that is equivalent to the additional State Pension he would have received, had he not been contracted-out. This is known as COPE.
- Mr Y's estimated COPE is £85.92 per week and his annual pension from the Plan is over £7,000 per annum. Therefore, Mr Y's benefits from the Plan far exceeds the estimated COPE that will be deducted from his State Pension at SPA. It was the Adjudicator's view that Mr Y has benefitted from being contracted-out of the additional State Pension.
- Mr Y is not in a worse financial position than someone who was not contracted-out of the additional State Pension. The Plan is a contracted-out Plan. Therefore, an employee who wanted to join the Plan would have needed to be contracted-out to do so.
- The GMP is the minimum pension an individual is entitled to receive from their OPS. It is a legal requirement that the GMP element of an individual's preserved pension must be revalued. Trustees can choose to use Full Rate or Fixed Rate revaluation methods. Full Rate revaluation is also known as Section 148 Orders and are based on the 'National Average Earnings' each year.

- At the time that Mr Y transferred his OPS to the Plan in 2004, he was informed that the Plan accepted the GMP liability. He was also informed that his GMP would be revalued using Section 148 Orders. Therefore, Mr Y's GMP did not have to be revalued at a fixed rate of 7.5%, per annum.
 - GMP reconciliation is the comparison of membership and GMP figures between Administrators and HMRC's records. If the GMP is recorded incorrectly, pension payments can be incorrect. The GMP reconciliation is not for Trustees to compare the value of COPE against the value of GMPs. The GMP is not equivalent to the COPE.
 - In this case, the Trustee was required to complete a reconciliation of Mr Y's benefits and, the evidence shows that it has done so. The Trustee's records appear to match HMRC's.
 - Therefore, in the Adjudicator's opinion, for Mr Y's complaint to succeed, he would need to prove that either HMRC or the Trustee had used incorrect figures. Further, Mr Y is not entitled to his GMP until he reaches SPA so any loss that he believes he has incurred would only be speculative until he reaches SPA.
 - Consequently, it was the Adjudicator's view that this complaint should not be upheld.
15. Mr Y did not accept the Adjudicator's Opinion and in response made some further points. A summary of his response is set out below:-
- He quoted information about COPE that he obtained from a Government source and said that the information makes him believe that his estimated COPE should be equal to his GMP. However, his estimated GMP is less than his estimated COPE.
 - He believes GMP and COPE are interchangeable words. GMP is a term used by his employer and COPE is a term used by the Department for Work & Pensions (**DWP**). Therefore, as his COPE and GMP figures are not the same, the Trustee needs to complete a reconciliation of his benefits with HMRC's figures.
 - He explained why he believes the Plan should have used the Fixed Rate revaluation method instead of the Section 148 Orders method to revalue his GMP. He also questioned the legal right for the Plan to use an alternative revaluation method to revalue his GMP, instead of the Fixed Rate revaluation method, when his previous OPS had used a Fixed Rate revaluation method to revalue his GMP in the past.
 - He believes the change in the way his GMP is revalued from Fixed Rate to Section 148 Orders needs "airing and legally" explaining.
 - He believes the Trustee, using an alternative revaluation method instead of the Fixed Rate revaluation method to revalue his GMP, has caused a disparity between his GMP and COPE figures.

16. The complaint was passed to me to consider. Mr Y's further comments do not change the outcome. I agree with the Adjudicator's Opinion and will therefore only respond to the key points made by Mr Y.

Ombudsman's decision

17. GMP and COPE are not interchangeable terms. Consequently, Mr Y's estimated COPE and estimated GMP do not have to be the same amount. COPE is the amount that will be deducted from the additional State Pension Mr Y is entitled to at SPA. Although this amount will be deducted from any additional State Pension Mr Y is entitled to receive, the benefits he is in receipt of from the Plan should include an amount that is equivalent to COPE. It is clear that the benefits Mr Y is receiving from the Plan exceed the estimated COPE that will be deducted from his additional State Pension. Therefore, I do not find that Mr Y has incurred a financial loss because he was contracted-out of the additional State Pension.
18. Mr Y's is not entitled to his GMP until he reaches SPA. Therefore, it will not be known until that time what his GMP entitlement is. I find that at this time, any loss Mr Y believes he will incur at SPA is speculative and I cannot make a direction on a speculative loss.
19. The revaluation method a Scheme uses to revalue members' GMPs is a matter for the Trustee to decide. Although Mr Y's previous OPS may have used Fixed Rate to revalue his GMP, this did not place an obligation on the Trustee of the Plan, to use the same revaluation method as the previous OPS. Because of this I do not find that the Trustee needs to provide Mr Y with an explanation for why it chose to revalue member's GMP using Section 148 Orders instead of Fixed Rate revaluation. It is within the Trustee's powers to choose this method.
20. I do not uphold Mr Y's complaint.

Anthony Arter

Pensions Ombudsman
30 April 2019