

## Ombudsman's Determination

|             |   |
|-------------|---|
| Applicant   | Mr R  |
| Scheme      | Serco Pension and Life Assurance Scheme ( <b>the Scheme</b> )   |
| Respondents | Mercer Limited ( <b>Mercer</b> ),<br>The Trustee of the Serco Pension and Life Assurance Scheme<br>( <b>the Trustee</b> ) |

## Outcome

1. I do not uphold Mr R's complaint and no further action is required by Mercer or the Trustee.

## Complaint summary

2. Mr R has complained that his pension was suspended. This was due to him not responding to a letter that was sent by Mercer.

## Background information, including submissions from the parties

3. In September 2016, Mercer, the administrator of the Scheme, undertook an annual "Certificate of Existence" (COE) exercise in respect of all overseas pensioners within the Scheme.
4. Mercer sent the COE letter to the address it held for Mr R. This said that Mr R needed to complete the relevant forms and return them within eight weeks, or his pension would be suspended.
5. Mercer did not receive a reply, and so it sent a chaser letter dated 8 December 2016. This explained that if a response was not received, Mr R's pension would be suspended with effect from January 2017. No response was received, and Mr R's pension was suspended.
6. Mr R was made aware by his bank that he had insufficient funds in his bank account, which he found was due to his pension benefits being suspended.
7. On 6 May 2017, Mr R wrote to Mercer to ask why his pension payments had been stopped. He said he had returned home to the UK and was unhappy that Mercer had not tried to telephone or email him before it suspended his pension.

8. On 20 June 2017, the Trustee contacted Mr R. It explained the process to reinstate his pension. On the same day, Mercer sent an email to Mr R and explained why his pension was suspended. It confirmed all the information that was required in order to reinstate his pension.
9. On the same day, Mr R responded by email and said he was not able to provide the security information as a result of his property being burgled. He was unable to print and scan the forms back to Mercer as he did not have the facilities to do so. Mr R later confirmed, that he had managed to locate a scanner.
10. On 21 June 2017, Mr R sent the correspondence required to the Trustee, which was immediately forwarded on to Mercer. Mercer confirmed that it had received the information and the completed COE. It said the pension would be reinstated with the first payment being made on 16 July 2017, and that the pension arrears of £10,333.74 would be paid no later than 26 June 2017.
11. Mr R was dissatisfied and raised a complaint through the Scheme's internal dispute resolution procedure (**IDRP**). He said that the method Mercer used to contact him regarding the COE was inadequate, the time it took to reinstate his pension and pay the arrears was unacceptable, the process for complaining to the Trustee was too time consuming and he disputed whether the Trustee had acted in accordance with its fiduciary duties.
12. The Trustee provided its response under the IDRP. It said the COE was completed in the interests of all members to ensure monies were not being paid out unnecessarily. The standard process was for these to be sent out by post. The Trustee went on to explain that it is the member's responsibility to make the Trustee aware of any change of address. It said it could not uphold Mr R's complaint as it did not believe it had done anything wrong and was following its standard process.
13. Mr R remained dissatisfied and brought his complaint to this office to be independently reviewed.

## **Adjudicator's Opinion**

14. Mr R's complaint was considered by one of our Adjudicators who concluded that no further action was required by the Trustee or Mercer. The Adjudicator's findings are summarised below:-
  - Mercer sent Mr R two letters saying that it was completing a COE exercise. Both letters said that if the member failed to respond, it would result in the pension payments being stopped.
  - It was good practice for Mercer to ask overseas members to provide proof of their existence by letter. This is its standard procedure. Mr R lives in an area where the post is volatile, but that is not something for which Mercer can be held accountable.

- As soon as Mercer and the Trustee had confirmation that Mr R was alive and continued to be entitled to his pension it put measures in place to reinstate his benefits.
  - Mr R brought the matter to Mercer's attention on 6 May 2017, and he began receiving his pension again on 16 July 2017. He believed that this delay was too long, but his payments needed to be re-instated through the payroll system, and in the circumstances, the timescale was reasonable. Mr R also received his pension arrears no later than 26 June 2017. At no point did Mercer or the Trustee cause an unnecessary delay. It required security information and as soon as this was received it processed the information, so that his pension benefits could be paid.
  - Mr R has not suffered a financial loss. His pension was reinstated together with pension arrears of £10,333.74.
15. Mr R did not accept the Adjudicator's Opinion and the complaint was passed to me to consider. Mr R provided his further comments which do not change the outcome. Mr R made the following comments:-
- He did not believe that the Adjudicator's Opinion adequately addressed the 'failings' made by the Trustee.
  - He specifically asked for the Trustee and Mercer to contact him via email or telephone due to the postal system being volatile in his country of residence.
  - He did not believe that the Trustee had acted in accordance with its fiduciary duties.
  - The Trustee had a duty of care to ensure his pension was only suspended if he should no longer have been receiving a pension. For example, the Trustee could have contacted him by telephone or email, before suspending his pension on the basis that he did not reply to the letter.
  - Mr R would like the Trustee to pay £5,000 as a voluntary donation to a charity of his choice, by way of an apology for the distress and inconvenience he has suffered.
16. The Trustee and Mercer accepted the Adjudicator's Opinion.
17. I agree with the Adjudicator's Opinion and I will therefore only respond to the key points made by Mr R for completeness.

### **Ombudsman's decision**

18. Mr R's pensions payments were suspended in January 2017, following a COE exercise completed by Mercer. Mr R only became aware that his benefits had stopped in May 2017, when his bank contacted him to make him aware that he had insufficient funds in his account.

19. It is clear that Mr R's pension was suspended when it ought not to have been. This would have caused Mr R distress and inconvenience as it was only when his bank made contact with him to say that he had insufficient funds, that he realised his pension had been stopped.
20. Nevertheless, Mr R's pension payments were not suspended due to Mercer or the Trustee doing anything wrong. Mercer carried out a COE standard process and sent two letters to the address that Mr R had provided. The fact that Mr R did not receive either letter, due to the volatile post system in his country of residence is not the Trustee's or Mercer's fault. It was appropriate for a COE exercise to be undertaken as this was in accordance with the Trustee's fiduciary duties. In addition, this type of exercise is encouraged by the Pensions Regulator.
21. Mr R has said that he had specifically asked the Trustee and Mercer to write to him by email or telephone. The Trustee has confirmed that at no point did Mr R request this. Therefore, it is not reasonable for Mr R to have expected contact to be made by email or telephone in the first instance or indeed when the letters went unanswered.
22. Mr R would like the Trustee and Mercer to pay a sum of £5,000 to a charity of his choice, for the distress and inconvenience he has suffered. Non-financial injustice awards are only made when distress and inconvenience has been caused as a result of maladministration. In this case, I have not found that the distress and inconvenience Mr R undoubtedly suffered, as a result of his pension payments being suspended, was as a result of maladministration. Further, Mr R has not suffered a financial loss, as his pension has been reinstated and he has received pension arrears of £10,333.74.
23. I do not uphold Mr R's complaint.

**Anthony Arter**

Pensions Ombudsman  
24 September 2019