

Ombudsman's Determination

Applicant	Mr N
Scheme	STMicroelectronics Limited Pension Fund (the Scheme)
Respondents	JLT Benefit Solutions Limited (JLT), Trustees of the STMicroelectronics Pension Scheme (the Trustees)

Outcome

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

Complaint summary

3. Mr N's complaint arises because he considers the Trustees calculated his pension benefits incorrectly.

Background information, including submissions from the parties

4. Mr N was employed by STMicroelectronics Limited (**STMicroelectronics**) from 15 May 1967 until 8 October 1971. He was an active member of the Scheme from 1 June 1968 until 8 October 1971, when he became a deferred member.
5. In December 2016, Mr N received a letter from the JLT, acting in its capacity as the Scheme administrator, telling him that he was due to receive a taxable small lump sum of £416.68.
6. Mr N considered that the total funds available from the Scheme should have been subject to annual increases and that, as such, the lump sum should be substantially higher. Accordingly, Mr N wrote to the Trustees on 28 December 2016, complaining that JLT had not applied annual increases to his deferred pension.
7. On 11 January 2017, JLT responded, explaining that the Social Security Act 1985 introduced the provision that preserved pensions were required to be increased annually up until Normal Retirement Date (**NRD**). However, this only related to members who became deferred members on, or after, 1 January 1986. Since Mr N

had become a deferred member of the Scheme on 8 October 1971, the provisions of the Social Security Act 1985 did not apply in his case.

8. JLT further explained that, since Mr N's NRD had been reached on 14 June 2005, a late retirement factor of 6% per annum had been applied to his pension benefits, which gave an annual pension of £39.00. The Scheme Actuary instructed that the small lump sum was calculated on a Cash Equivalent Transfer Value (**CETV**) basis, which resulted in the sum of £416.68. JLT said it was satisfied that the small lump sum was correct, based on the records it held for Mr N.
9. Mr N replied on 1 February 2017, saying he was promoted while he worked for STMicroelectronics, which resulted in an increased salary and higher pension contributions being paid into the Scheme. He suggested that his lump sum should be at least £3,260.00.
10. The Trustees responded on 26 July 2017, saying they agreed with JLT's finding that Mr N was not entitled to any annual increases between the date he became a deferred member of the Scheme and his NRD.
11. The Trustees added that, when he became a deferred member of the Scheme, Mr N had built up an annual pension of £20.25. However, the addition of the late retirement factor of 6% per annum gave a total annual pension of £39.00, or a small lump sum of £416.68. The Trustees said they were satisfied Mr N's small lump sum had been calculated correctly.

Adjudicator's Opinion

12. Mr N's complaint was considered by one of our Adjudicators, who concluded that no further action was required by JLT or the Trustees. The Adjudicator's findings are summarised briefly below:-
 - There was no provision for annual increases to his preserved pension from the Scheme.
 - There was no reason to question the accuracy of the calculations JLT made in respect of Mr N's benefit entitlement.
13. Mr N did not accept the Adjudicator's Opinion and the complaint was passed to me to consider. Mr N provided his further comments, which do not change the outcome. I agree with the Adjudicator's Opinion and I will therefore only respond to the key points made by Mr N for completeness. In summary, these are:-
 - The contributions into the Scheme were equal to 6% of his annual salary. His annual salary was £2,000. That sum, multiplied by 3 years membership, gives a figure of £720.00.
 - After the 6% per annum late retirement factor is accounted for, his lump sum should be at least £1,400.00.

Ombudsman's decision

14. I note that Mr N refers to his annual salary when he worked for STMicroelectronics having been £2,000. However, in his letter to JLT dated 1 February 2017, he mentioned that he had received a promotion during his period of employment there. He said this resulted in an increased salary and higher pension contributions being paid into the Scheme. As such, his pension contributions would not have been the same throughout his active membership of the Scheme. Furthermore, no confirmation of Mr N's salary has been provided. Accordingly, I cannot rely on the calculations Mr N has made.
15. In any case, the Trust Deed (see the Appendix) reveals that the Scheme is a defined benefit (also known as final salary) arrangement. This means Mr N's benefit entitlement from the Scheme is determined by a calculation based on the number of years of active membership he built up and his salary at, or close to, the date he became a preserved member. As a result, Mr N's final benefits from the Scheme would not be calculated by reference to contributions made in the way that he has described.
16. In its letter to Mr N dated 11 January 2017, JLT disclosed that the Scheme Actuary had instructed the small lump sum to be calculated on a CETV basis. In my judgment, the involvement of the Scheme Actuary in the calculation of Mr N's pension benefits strongly suggests the sum of £416.68 was arrived at accurately.
17. Also in its letter dated 11 January 2017, JLT provided Mr N with an explanation of how his benefit entitlement was calculated, explaining that there was no provision for increasing the preserved pension to NRD. JLT also explained that an increase of 6% per annum had been applied from Mr N's NRD to the date of payment, and gave the workings. The Trustees reviewed the calculations and were satisfied they were correct. In these circumstances, I see no reason to question the accuracy of the small lump sum that was arrived at.
18. Therefore, I do not uphold Mr N's complaint.

Karen Johnston

Deputy Pensions Ombudsman
21 February 2018

Appendix

The Trust Deed of the STMicroelectronics Limited Pension Fund 1965

19. As relevant, part III (“Benefits”) provides:-

“In respect of every Member who shall have complied in all respects with the terms and conditions of the Pension Scheme, the benefits specified hereunder as appropriate to any event will become payable on the happening of that event, that is to say

...

(D) For the purpose of this sub-Rule (1) (D) “Final Remuneration” means whichever is the greatest of

(a) Total Remuneration as hereinafter defined at the date of attainment of Normal Pension Age or

(b) Total Remuneration as hereinafter defined five years prior to the date of attainment of Normal Pension Age or

(c) the yearly average of total actual emoluments (excluding Directors’ fees) of any three or more consecutive years out of the last ten years before the date of attainment of Normal Pension Age

...

(3) Benefit on retirement after Normal Pension Age.

If a Member continues in the service of the Participating Company after Normal Pension Age, he will be entitled to a pension (herein referred to as an “Increased Pension”), commencing on the date of his retirement from such service and payable in similar manner to a Normal Retirement Pension. The amount of Increased Pension will in each case be determined by the Trustees and will be calculated by reference to the age at which the Member actually retires and the amount of the Normal Retirement Pension which would have been payable on retirement at Normal Pension Age.

(4) Benefit on withdrawal from service.

(A) If a Member ceases to be actively and continuously engaged in the service of a Participating Company before Normal Pension Age without being entitled to a Reduced Pension, he will be entitled, subject to the provisions of Rule 36, to a deferred pension to commence at Normal Pension Age (if he shall then be living) and payable in a similar manner to a Normal Retirement Pension, provided the amount (as hereinafter determined) is not less than £6 per annum. The amount of deferred pension will be that part of the Normal Retirement Pension calculated as in Sub-rule (1) of this Rule in respect of the

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total service of the Member with all Participating Companies up to the date of withdrawal and by reference to his Scheme Salary at the date of withdrawal”.