

Ombudsman's Determination

Applicant	Ms R
Scheme	Tube Investment (TI) Group Pension Scheme (the Scheme)
Respondent	TI Pension Trustee Limited (the Trustee)

Outcome

1. I do not uphold Ms R'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. Ms R says she has deferred benefits under the Scheme. The Trustee has said that it issued a refund of her contributions on 18 October 1983, so the only benefit available under the Scheme is Ms R's Guaranteed Minimum Pension (**GMP**).

Background information, including submissions from the parties

4. On 5 February 1979, Ms R became a member of the Scheme.
5. On 31 August 1983, Ms R ended her employment with Raleigh UK Ltd (**Raleigh**).
6. On 3 October 1983, Ms R completed a leavers form (**the Form**) and requested a refund of her contributions. The Form shows an active selection for a refund of contributions and a signature to confirm authenticity. Ms R has argued that she did not complete or sign the Form.
7. On 18 October 1983, the Trustee wrote to Ms R enclosing a cheque for the sum of her contributions. This was sent to the address shown on the Form from which Ms R was corresponding at the time. Ms R contends that she did not receive this.
8. Ms R has said that she believed that she held deferred benefits within the Scheme. Ms R has said that she has not received any correspondence, relating to the Scheme, since she left her employment with Raleigh.

9. On 30 October 2013, Ms R contacted the Pension Tracing Service (**PTS**) in an attempt to locate her benefits. PTS told Ms R to contact Raleigh.
10. On 18 November 2013, Raleigh wrote to Ms R and told her to contact the Scheme Administrators, MNPA.
11. On 9 May 2014, ENSIGN (previously MNPA) wrote to Ms R and told her it was unable to locate any benefits for her under the Scheme.
12. On 11 January 2017, Ms R wrote to ENSIGN and asked it to try and locate her benefits again. ENSIGN forwarded the request to the new Scheme Administrators, JLT.
13. On 27 January 2017, JLT wrote to Ms R and apologised for not being able to locate her records when she first enquired about them. JLT confirmed that Ms R opted to receive a refund of her contributions when she left the Scheme. As a result, the only benefit still held under the Scheme was her GMP.
14. On 17 May 2018, Ms R complained that the signature on the Form did not match her signature from the time. She provided a copy of a job application she made to Boots on 24 August 1983. She said there were clear discrepancies between the signatures used on each application, specifically there were inconsistencies in the way the digits three and eight appeared in the date field. Ms R also complained that the Trustee was not able to provide evidence to show the cheque was cashed, so it could not prove that she had a refund of her contributions. In addition, Ms R said that her four other pensions had been deferred, so she would have also deferred this one.
15. On 6 July 2018, the Trustee responded to Ms R's complaint. It apologised for originally being unable to locate Ms R's benefits. It explained that where a member has requested a refund of contributions, less the cost of providing a GMP, no further benefits are payable from the Scheme apart from the GMP. The Trustee responded to concerns about the differences in Ms R's signature and said that it felt that the differences were only minor. It also said that Ms R had told it that the signature used was one that she had been using since 1985, which adds weight to its authenticity. With regard to Ms R's request for proof that the cheque had been cashed, it said that the cheque was issued over 34 years ago. It commented that it was sent to the correct address. In addition, it said that Ms R would have completed the Form and therefore should have known that a cheque was on its way to her. If she had concerns about the cheque not arriving, it would have expected her to follow it up at the time.

Adjudicator's Opinion

16. Ms R'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 briefly below:-

- Ms R's complaint that she cannot recall completing the Form or receiving a refund is not persuasive. Given the time that has passed, the Adjudicator felt it would not be unusual for somebody to have forgotten about the refund.
 - Ms R has also argued that the signature provided on the Form did not match her signature at the time. However, Ms R has admitted the signature on the Form matches the one she currently uses. Ms R has said that she did not begin using it until 1985, two years after leaving Raleigh. In some of her submissions, Ms R suggested that the signature could have been lifted from her complaint correspondence and placed onto the Form. Ms R has provided a copy of her application form for employment with Boots, which was completed on 24 August 1983. She has argued that the difference in signatures show that the Form was incorrect. The Adjudicator reviewed the signatures and agreed that they are different; however, he felt the differences were minor. The Adjudicator did not think the differences were enough to suggest falsification of the Form. What is more, Ms R has confirmed that she adopted the signature, used on the Form, from 1985. Whilst Ms R has said that she didn't begin to use this signature until 1985, given the time that has passed the Adjudicator believed it was plausible to suggest she may have started using it prior to this date.
 - Following receipt of the Form, the Trustee issued a cheque to Ms R. The cheque was sent to the correct address and the Trustee has been able to provide a copy of the accompanying letter. Given that the Adjudicator believed it was likely that the Form was completed by Ms R, he thought that she would have been anticipating the payment. If it was not received, the Adjudicator would have expected Ms R to contact Raleigh or the Trustee in the months that followed.
 - The Adjudicator did not feel that it was the Trustee's responsibility to prove that the cheque had been cashed. He felt that it was unreasonable to expect it to hold records going back over 30 years.
 - Ms R's claim to a deferred pension under the Scheme is not supported by the available evidence. Based on that information, the Adjudicator believed it was more likely than not that Mrs R's contributions were refunded to her, under circumstances she cannot now recall. The refund of her contributions extinguished any rights to benefits, other than her GMP, she would have retained in the Scheme.
17. Ms R did not accept the Adjudicator's Opinion and the complaint was passed to me to consider.
18. Ms R provided her further comments which do not change the outcome. Ms R has argued that:-
- if she received the cheque, she would have deposited it into one of her two savings accounts. Ms R provided copies of each of the saving account books, one with Halifax and one with the Derbyshire Building Society. Neither accounts show any transactions taking place in 1983.

- the Trustee is unable to evidence that the cheque has been cashed.
 - her address has changed over time. When she submitted a Data Subject Access Request (**DSAR**) to JLT Pensions, there was no mention of 88 Park Lane, the address that the cheque was sent to.
 - she has been able to supply a DSAR from Halifax, this does not show any payments matching the refund of contributions.
19. I agree with the Adjudicator's Opinion and I will therefore only respond to the key points made by Ms R for completeness.

Ombudsman's decision

20. Ms R has complained that she did not request a refund of her contributions. She said she could not recall completing the Form which requested the refund. Furthermore, Ms R claimed that her signature, as it appears on the Form, was not in use until 1985. As a result, Ms R alleged her signature could have been lifted from another document. In addition, Ms R has argued that the onus should fall on the Trustee to prove that the cheque was cashed.
21. Ms R has said that she cannot remember requesting a refund or receiving a cheque. Given the time that has passed, memories necessarily fade and it would not be unusual for a refund to be overlooked. In these circumstances I will give greater weight to contemporaneous records. In this case I do not see any reason to doubt that Ms R completed the Form requesting a refund.
22. Ms R maintains that the signature provided on the Form does not match the signature she used at the time. Ms R has confirmed that the signature on the Form matches the one she currently uses; however, she alleges that she only began to use the title 'Ms' in her signature in 1985, two years after leaving Raleigh. In her submissions, Ms R has suggested that the signature could have been lifted from her complaint correspondence and placed onto the Form. In an attempt to substantiate her claims, Ms R has provided a copy of her application form for employment with Boots, that was completed on 24 August 1983. She says that the signature from her Boots application shows several discrepancies and this should show that the Form was incorrect. I do not agree that there are differences that indicate any falsification of the Form. I consider it is more likely than not that the form was completed by Ms R. It is clear that Ms R eventually adopted the title Ms. Given the time that has passed I consider the likely explanation for its presence on the form to be that Ms R started using it prior to 1985.
23. After processing the Form, the Trustee issued the refund of Ms R's contributions by cheque. The Trustee has provided a copy of the covering letter and it is clear that this was sent to the correct address. Ms R had already completed the Form requesting the refund, so she should have been expecting the payment. Had Ms R

not received the cheque, I would have expected her to contact the Trustee in the weeks or months following the completion of the Form.

24. Ms R has also complained that JLT's response to her DSAR failed to evidence that the Trustee held records of the address the cheque was sent to. The Trustee responded saying that it was not standard practice to hold member's addresses. It would have only been notified of Ms R's address by her employer when it was told that Ms R was leaving the Scheme. I do not consider that this point takes the complaint any further because it is undisputed that the address being used was the correct one at the time.
25. Ms R has argued that the burden of proof, with regard to evidencing payment, should lie with the Trustee. In a dispute dating back to 1983 there are necessarily limited records available. I am satisfied that the Trustee has demonstrated by production of records that it processed the refund as requested. Ms R has argued that, by supplying two deposit books, she has shown that she did not receive a payment of £166.81. I disagree. It is equally possible that she paid it into a current account. In this case I consider that the scheme records are the best evidence of whether a refund was processed. I have seen nothing which leads me to consider that the scheme records are incorrect. I find it more likely than not that the cheque was sent as requested and find no evidence of maladministration.
26. Therefore, I do not uphold Ms R's complaint.

Karen Johnston

Deputy Pensions Ombudsman
14 May 2019