

Ombudsman's Determination

Applicant	Mr O
Scheme	National Grid UK Pension Scheme (the Scheme)
Respondents	National Grid Electricity Group Trustee Limited (the Trustee)

Outcome

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

Complaint summary

2. Mr O's complaint is that his Guaranteed Minimum Pension (**GMP**) has not been reinstated in the Scheme following his request.
3. Mr O said he has been financially disadvantaged by the payment of a Contribution Equivalent Payment (**CEP**) by the Trustee to HM Revenue and Customs (**HMRC**). He said the payment was made without his prior agreement and his state pension has not increased as a result of the CEP payment.
4. He said he has foregone the income tax allowance he should have received in respect of the GMP.
5. Mr O also found the pursuit of his complaint to be frustrating and time consuming.

Background information, including submissions from the parties

6. Mr O worked for British Gas and joined the Scheme in August 1981. He left in July 1983, with less than five years' Scheme membership. Under the pension rules forming part of the Social Security Act 1973, Mr O was not entitled to a pension from the Scheme. He was only entitled to a transfer to certain compatible schemes or a refund of personal contributions. He signed a form dated 6 December 1984, requesting the refund of his contributions.
7. Normally this refund would result in a Contribution Equivalent Payment (**CEP**) being made to HMRC. The purpose of the CEP is to buy the former member back into the additional State Pension Scheme. This enables HMRC to calculate the correct state pension entitlement for the former member. In Mr O's case, the Trustee has explained that its usual practice was to report to HMRC via a "bulk notification"

covering several Scheme leavers. However, due to the passage of time there is no longer any specific evidence that the CEP in respect of Mr O was paid in 1984.

8. An industry-wide GMP reconciliation exercise was carried out during 2017. Its purpose was to ensure that any CEP due but not already paid, or paid but lacking evidence of such payment, was made to HMRC. This exercise was intended to prevent former members losing out on additional state pension after they had taken a refund of contributions from their former pension schemes.
9. The Scheme made a bulk CEP in 2017, in order to ensure parity between its records and those of HMRC. This payment restored Mr O's additional state pension entitlement for the relevant period to what it would have been had he not been a member of the Scheme. Payment of the CEP also discharged the Trustee's future liability to pay a GMP to Mr O from the Scheme.
10. Mr O disputed this with UK Pension Operations (**UKPO**), the first point of contact for complaints about the Scheme. He said his state pension had not increased as a result of any CEP payment. He was financially out of pocket as a result of the CEP payment.
11. He said the evidence that a CEP was paid in either 1984 or in 2017, was unsubstantiated in the absence of a paper trail to follow that could offer evidence in support of the Trustee's assertion. Further, he had not given his prior permission for the Trustee to pay a CEP on his behalf in 2017.
12. UKPO explained it could not reinstate the GMP entitlement. It noted that there had been some delays and that there were also some inconsistencies in correspondence with Mr O. In recognition of the poor handling of his complaint UKPO offered Mr O an award of £300.
13. Mr O did not accept this outcome or the offer and complained formally to the Trustee under stage one of the Scheme's internal dispute resolution procedure (**IDRP**). The Trustee confirmed that:-
 - The Scheme records were not conclusive, but it had made the 2017 CEP as part of an industry-wide 'GMP reconciliation' project.
 - His complaint was not upheld because the Scheme had no further obligation in respect of his previous benefits.
 - Regarding the handling of his complaint, the Trustee noted that UKPO had offered an award of £300 in compensation for delays and inconsistencies in correspondence with him. On reflection, it believed this payment should be increased to £500. Acceptance of this payment would constitute full and final settlement of all claims and grievances against the Scheme in this matter.
14. Mr O did not accept the outcome or the award of £500 and asked to pursue his complaint through the second stage of the IDRP, stating the following on the Stage 2 Request for Reconsideration of Stage 1 Decision form:-

- He raised a new point that he had not made before, saying his request to retain a pension within the Scheme was denied when he resigned so he had no choice but to obtain a refund of contributions in 1984.
- There was an unsubstantiated supposition that the CEP had been paid at that time.
- The 2017 CEP was made because the Trustee could not substantiate the assertion that it had been made in 2004.
- He was not consulted in 2017 before the CEP was paid nor had he agreed to the 2017 CEP being paid.
- He was considerably worse off as a result of being reinstated in the state pension scheme than he would have been if he had received the GMP from the Scheme.

15. After its reconsideration of the issues, the Trustee issued its IDRPs Stage two decision, saying:-

- It continued to reject Mr O's request to have his GMP reinstated.
- It apologised to Mr O for the maladministration arising from the poor handling of his complaint and confirmed its previous offer of £500 in compensation.
- It explained the primary legislation and Scheme Rules which formed the basis for its decision.

16. In submissions to the Adjudicator, Mr O stated that:-

- HMRC advised him that, for the relevant period, there was a GMP entitlement from the Scheme of £33.23 per week at his state retirement age (**SRA**).
- He reached state pension age on 7 August 2015, and deferred his state pension for 12 months.
- His post-retirement taxable income was below the income tax threshold, so he was not fully utilising his income tax annual allowance. The additional GMP he believes should have been payable from the Scheme would thus have been untaxed.
- He supplied an extract from his personal copy of the "Summary of the Main Provisions of the Gas Staff Pension scheme" dated July 1978, which stated that:
 - "...if you have less than 5 years' service or are under age 26 your refund will consist of (a) + (b) + (c) irrespective of the date of leaving."

Mr O contended that the Trustee had not complied with these provisions.

- In response to questions on the point about his request to retain a Scheme pension having been denied, Mr O confirmed that he could produce no evidence of having made such a request before taking a return of contributions in 1984.

Adjudicator's Opinion

17. Mr O'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 O had less than five years' qualifying service. He was not therefore entitled to a preserved pension. He was offered the opportunity to take a refund of personal contributions net of the contributions that would otherwise have been payable to the State Additional Pension Scheme. He chose to exercise his option to take a refund of his personal contributions.
- The payment of the CEP was a legal requirement with which the Trustee must comply once Mr O took a refund of his personal contributions, regardless of when the actual payment was made.
- The lack of conclusive evidence that the CEP was made in 1984 would not mean that the Ombudsman would automatically defer to the applicant in the absence of records from the Trustee.
- The Trustee had discharged its obligation to Mr O by making the CEP in 2017. Once this payment had been made Mr O no longer had any right to a GMP from the Scheme.
- In respect of Mr O's contention that his request to retain a Scheme pension was denied, the Adjudicator said the only options that were open to Mr O were a refund or a transfer. She concluded that the Trustee had acted appropriately by processing Mr O's written request for a refund.

18. The Trustee accepted the Opinion, but Mr O did not, and the complaint was passed to me to consider. Mr O provided his further comments including copies of letters which HMRC had sent to him regarding his State Pension entitlement. None of these change the outcome. I agree with the Adjudicator's Opinion and I will therefore only respond to the main points made by Mr O for completeness.

Ombudsman's decision

19. Mr O opted to take a refund of his personal contributions in 1984, shortly after leaving service. The Trustee was then bound to make a CEP to HMRC. It is not possible to know with any certainty whether such a payment was made at that time due to the lack of records. However, the evidence indicates that the Trustee did make the payment in 2017, having been informed by HMRC in 2015, that Mr O retained GMP

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rights. The Trustee has discharged its obligation to Mr O and no longer has to pay him any GMP.

20. In respect of the length of time it took the Respondent to investigate the matter, and to respond to the complaint, I consider the sum of £500 is adequate redress for the significant distress and inconvenience Mr O has experienced; he should contact the Trustee if he wishes to accept its offer.

21. I do not uphold Mr O's complaint.

Anthony Arter

Pensions Ombudsman
7 May 2020