

Ombudsman's Determination

Applicant	Mr X
Scheme	BAE Systems Pension Scheme (the Scheme)
Respondent	BAE Systems Pensions Scheme Trustees Limited (the Trustees)

Outcome

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

Complaint summary

3. Mr X was a deferred member of the Scheme, and has complained that the tax-free cash lump sum he received on retirement was lower than that quoted in the Benefit Information Pack (**BIP**).

Background information, including submissions from the parties

4. On 23 November 2016, the Trustees sent Mr X a BIP. This included a number of different retirement options. Option two set out that Mr X could receive a tax-free cash lump sum of £14,267.74 and a pension of £6,630.72 per annum. The Benefit Option Summary included the following statement:

"The benefits shown below are not guaranteed. They are based on the latest information supplied to the Trustees and assumptions about other factors. For further details, please refer to the Notes below. Your final benefit may need to be recalculated on retirement."
5. Mr X received a Retirement Summary from the Trustees on 8 December 2016. This confirmed his retirement date was 1 January 2017 and it explained that arrangements for a tax-free lump sum of £12,364.38 were being made, along with a pension of £6,630.72 per annum.
6. Mr X raised a query regarding the change in the tax-free cash lump sum, and the Trustees said they would look into it and come back to him.
7. On 24 January 2017, the Trustees wrote to Mr X. They said:

“Since the November pension estimate was calculated the Occupational Pensions (Revaluation) Order 2016 was agreed and notified to pension providers. The 2016 Revaluation Order percentage was lower than the previous year’s. The declared percentage was 86.2% in respect of the revaluation period 1 January 1992 to 31 December 2016. This rate was applicable for retirement on/after 1 January 2017.

As part of the retirement finalisation process your pension benefits were recalculated using the appropriate percentage increase applicable to a member retiring on 1 January 2017. Due to the change in the Revaluation Orders; your full pension (Option 1) reduced to £7,275.00 each year. Therefore the Maximum Retirement Lump Sum in Option 2 also reduced to £12,364.38. The pension for Option 2 remained unchanged at £6,630.72 each year.”

8. Mr X remained dissatisfied and brought his complaint to the Pensions Ombudsman for the matter to be independently reviewed.

Adjudicator’s Opinion

9. Mr X’s complaint was considered by one of our Adjudicators who concluded that no further action was required by the Trustees. The Adjudicator’s findings are summarised below:-
 - The Trustees had a duty to apply the correct Revaluation Orders for deferred members in accordance with the Rules of the Scheme.
 - As the payment of Mr X’s benefits came after the updated Revaluation Order, he was subject to the changes based on the recalculation of his benefits.
 - The Trustees had not done anything wrong in applying the published revaluation order to Mr X’s benefits at retirement, which led to a decrease in value of the tax-free cash lump sum. Further, Mr X should have been aware that his benefits could be subject to change because of the disclaimer that came with the BIP.
10. Mr X did not accept the Adjudicator’s Opinion and the complaint was passed to me to consider. Mr X provided his further comments, summarised below, which do not change the outcome:-
 - He did not believe the complaint was purely that he should receive the higher estimate.
 - He believed that incorrect data was used in the first BIP because the calculation used 25 years’ of revaluation but included the 1991 figure which should not have been included as it has never been a relevant figure.
 - This made the original figure an intentional miscalculation and purposefully incorrect.

- Had the Trustees revalued his benefits over 24 years instead of a full 25, this would have resulted in a higher figure.
- It is unclear why the Scheme used a year for revaluation that would never appear in the final figures.

11. I agree with the Adjudicator's Opinion and I will therefore only respond to the key points made by Mr X for completeness.

Ombudsman's decision

12. Mr X disputes how the Trustees calculated his benefits, suggesting the first calculation was intentionally incorrect. I cannot agree that he was provided with incorrect information. I find that the change in value was due to the 2016 Revaluation Order.
13. Even if Mr X's tax-free cash lump sum was somehow overstated in November 2016, and I do not believe it was, Mr X was not entitled to receive higher pension benefits than he was otherwise entitled to. Mr X had the opportunity of postponing his retirement when he received the definitive Retirement Summary in December 2016, but, he chose to proceed.
14. The Trustees have provided a copy of the Scheme Rules (shown as an appendix). Section nine of the Rules show how benefits from deferred status are calculated and what factors are taken into consideration.
15. The Trustees have shown that when calculating a preserved pension, it takes into consideration the relevant law applying to Revaluation Orders. Thus, I am satisfied the change in value was due to how the final retirement benefits were calculated, and not due to any maladministration on the part of the Trustees.
16. Mr X was also made fully aware that the initial quotation was only an estimate and was not guaranteed.
17. I do not uphold X's complaint

Anthony Arter

Pensions Ombudsman
16 August 2018

Appendix

The Scheme Rules

9. Preserved pension

A Member who leaves Service before Normal Retirement Date with at least 2 years' Qualifying Service and without becoming entitled to an immediate pension under Rule 5.2 or 5.3 (early retirement) will receive a pension for life from Normal Retirement Date. The pension will be equal to the greater of:

9.1.1 the Member's Earnings Related Pension, increased as described below; and

9.1.2 the pension that can be provided at Normal Retirement Date by the Member's Individual Pension Account.

The Member's Earnings Related Pension will be increased before payment as follows:

- (a) if the Member leaves Service at least a year before Normal Retirement Date, the pension in excess of GMP will be increased by the percentage required under the Revaluation Laws;
- (b) the GMP will be increased as required by the Contracting-out Laws.

The amount in the Member's Individual Pension Account will continue to be revalued at the end of each Scheme Year between the date the Member leaves Service and Normal Retirement Date, as described in Rule 5.1 (retirement at Normal Retirement Date).

A Member who leaves Service with less than 2 years' Qualifying Service will also receive a pension under this Rule if a transfer payment in respect of his or her rights under a personal pension scheme has been made to the Scheme.

For the avoidance of doubt, when calculating the Member's pension, the Longevity Adjustment Factor will be calculated by reference to the Scheme Year in which the Member retires.

Note: As at 6 April 2009, the Revaluation Laws require increases broadly in line with the rise in the cost of living for complete years (ending on a 31 December) between the Member's leaving Service and Normal Retirement Date. However, these increases are limited to a maximum of 5% a year compound for pension that is attributable to Pensionable Service before 6 April 2009 and 2.5% a year compound for pension that is attributable to Pensionable Service on and after 6 April 2009. Any subsequent changes to the increases required under the Revaluation Laws will apply.