Ombudsman's Determination

Applicant	Mr K
Scheme	The Prudential Staff Pension Scheme (**the Scheme**)
Respondents	The Trustee of the Prudential Staff Pension Scheme (**the Trustee**)

Outcome

1. I do not uphold Mr K'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. Mr K's complaint is that the temporary additional pension awarded to him under the State Spreading Option (**SSO**), permitted by the Scheme rules, should continue to be paid up to his revised State Pension Age (**SPA**) of 66 and should not cease at age 65.

Background information, including submissions from the parties

4. On 1 March 2010, Mr K started to take benefits from the Scheme. Under the Scheme rules, Mr K elected to take the SSO. Mr K permanently surrendered part of his pension in exchange for a temporary, additional pension until he reached SPA. At the time this was age 65 for men. The SSO was calculated on an actuarially cost-neutral basis using age 65.

5. On 3 November 2011, the Pensions Act (2011) (**the Act**) received Royal Assent. The Act accelerated previously proposed changes to the SPA for men and women. From December 2018 the SPA for both genders incrementally increased to age 66 by October 2020. Mr K's SPA changed to 66, which he will reach on 29 August 2024.

6. In 2015, Scheme correspondence started to include information about the implications of the changing SPA in annual pension increase letters to pensioners. The letters set out when SSOs were due to end for each member.

7. In October 2016, Mr K complained via the Scheme's Internal Dispute Resolution Procedure (**IDRP**). He considered that he would make a loss of nearly £6,000 due to the SSO finishing before his State Pension started. Mr K also argued that, as a

person working in the pensions industry for many years, he was aware of schemes that had been obliged to extend the payment of similar ‘bridging’ pensions to the revised SPA. He also considered that as some of his retirement forms stated that the SSO would be paid until SPA, the Trustee should meet this obligation in full.

8. On 15 December 2016, as part of its Stage 2 IDRP response, the Trustee argued that the Scheme rules were drafted in a different way from the other schemes Mr K had referred to in his complaint. It argued that a member surrendered part of their pension for life in exchange for an additional pension, calculated on an actuarially cost-neutral basis to a specific age. It also argued that the SSO could not now be adjusted to account for the revised SPA as this would involve re-calculating Mr K’s pension. The Trustee said that the SSO was dissimilar to the ‘bridging’ pensions that Mr K had referenced in his previous correspondence.

9. On 17 October 2018, the Trustee’s representative also provided its formal response to Mr K’s complaint to this office. The representative argued that there was no way the Trustee could have known in 2010 that the SPA would increase earlier than stipulated in previous legislation. Consequently, the information it sent to Mr K had been correct at the date of his retirement. It further argued that Mr K’s retirement forms had expressly stated that the meaning of SPA in 2010 was age 65 for men and so the position was clear from the outset.

Adjudicator’s Opinion

10. Mr K’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:-

- The Adjudicator understood why Mr K believed that his SSO would be paid until he reached SPA, as this was the position when he retired in March 2010. However, this position was substantially revised by highly publicised legislative changes to the SPA. The Trustee could not reasonably have known these changes would occur before the White Paper was published in November 2010. This was also 7 months following Mr K’s retirement and receiving benefits from the Scheme.

- Prior to this point, SSOs could only be paid up to age 65 due to legislation. The Trustee argued that it did not offer SSOs to any member who could be affected by known future changes to the SPA. The Trustee could not reasonably have known about the future change to Mr K’s SPA and so it was correct to state that Mr K was eligible for an SSO at that time.

- Mr K’s original retirement paperwork clearly defined his SPA as age 65. It further stated the SPA would be subject to revision in future years, in so far as those changes were laid out in contemporaneous legislation. The Adjudicator said the

Trustee adequately notified members after the position changed, by including notification of the end date of SSOs in annual increase letters to pensioners.

- Mr K said, in his submissions, that he “worked on pension schemes for 30 years”. Consequently, the Adjudicator could reasonably expect him to be more knowledgeable and engaged than a typical applicant. Bearing his experience in mind, it would have been reasonable for Mr K to query the impact of SPA changes on his SSO much earlier than he did and thereafter mitigate the effects of it. The Adjudicator did not expect Mr K to be an expert on pensions, rather that he considered him to be more engaged and aware of his own entitlement.
- The ultimate issue is whether the Scheme rules provide for an extension of Mr K’s SSO in the way he argued. Rule 7.2(1) states that the SSO will be paid until “the anticipated date of the commencement of the National Insurance Pension”. Mr K could only reasonably have expected this to be age 65, in spite of subsequent legislative changes.

11. Mr K did not accept the Adjudicator’s Opinion and the complaint was passed to me to consider. Mr K 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 K for completeness.

Ombudsman’s decision

12. In his comments, Mr K maintains that other schemes he is familiar with are obliged to pay ‘bridging’ pensions to pensioners in the same position as him. However, his entitlement can only be calculated in accordance with this Scheme’s rules. Consequently, I do not find the decisions made by the Trustees of other schemes to be relevant to the facts of Mr K’s complaint.

13. The Scheme rules stipulate that the SSO is payable until the anticipated date Mr K reaches SPA. Subsequent legislative changes did not affect the date Mr K anticipated reaching SPA in 2010. Indeed, the only date he could reasonably have expected to reach SPA was age 65, for the reasons the Adjudicator has identified.

14. Mr K argues the SSO is meant to provide a ‘balance to income’ until SPA, even if it were to be altered by legislation. He says the retirement information he received from the Trustee only referred to ‘SPA’ and that was ambiguous. However, the original SSO option form Mr K signed in 2010 defines SPA as age 65. Consequently, I find Mr K should reasonably have been aware of this provision already or ascertained the correct position much earlier than he did.

15. The SSO is also calculated on an actuarially cost-neutral basis. The number of years it is calculated over affects the annual rate put into payment. So, even if it were permissible to calculate Mr K’s SSO age 66, the same total amount of pension would be paid, at a lower rate, over a longer period. This means that the Trustee would be

paying Mr K more than his Scheme entitlement if it now agreed to extend his SSO to age 66.

16. Mr K says he agrees with the Adjudicator's timeline of events leading up to the Act. However, he says discussions in the House of Commons should have made the Trustee aware of the impending changes to the SPA. However, legislation may be altered substantially before it passes through Parliament or may be deferred indefinitely due to a lack of Parliamentary time. A Trustee can only amend Scheme rules after an Act has received Royal Assent and the changes are certain. I do not find that the Trustee's awareness of proposed legislative changes to be relevant to the outcome of Mr K's complaint.

17. I do not uphold Mr K's complaint.

Anthony Arter

Pensions Ombudsman
8 April 2019