

## Ombudsman's Determination

Applicant	Mr E
Scheme	Local Government Pension Scheme ( <b>the Scheme</b> )
Respondent	Greater Manchester Pension Fund ( <b>the Fund</b> )

## Outcome

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

## Complaint summary

3. Mr E's complaint against the Fund is that it has not met its statutory obligations to inform him there was a change to the Scheme, namely a reduction to the late retirement factors.
4. Had he been aware of the reductions he would have acted to avoid being affected by these changes.

## Background information, including submissions from the parties

5. Mr E was employed by Bury Council and was also a member of the Scheme.
6. Mr E has reached his normal retirement date but has continued to work and contribute to the Scheme.
7. In October 2016, it was announced by The Department for Communities and Local Government that there would be a reduction to the late retirement factors applied under the Scheme.
8. These changes were due to come into force on 4 January 2017.
9. In November 2016, the Fund sent an electronic bulletin to all employers participating in the Fund to contact any of their employees that might be affected by the changes, particularly any with a retirement date on or around 4 January 2017.
10. On 4 January 2017, the changes came into force.

11. However, Mr E was not contacted by his employer about the changes and only became aware in August 2017, when he received his annual benefit statement.
12. He says had he been aware of the changes then he would have acted to avoid been impacted, such as freezing his pension benefits.
13. He also says that the Fund had a statutory duty to inform him of any, “material changes” to the Scheme.
14. His tax free lump sum has been reduced by £1000 as a result, and he asserts that as this is a, “material change”, he should have been directly contacted by the Fund about this.
15. However, the Fund relies on the following provisions of the Occupational and Personal Pension Scheme Disclosure Regulations 2013:

“Material alterations to basic scheme information

8.— (1) The information mentioned in paragraph (2) must be given in accordance with this regulation where—

(a) there is a change in relation to the scheme, and

(b) that change results in a material alteration in the information listed in Part 1 of Schedule 2.

(2) The information is the information referred to in paragraph (1)(b) that has materially changed.”

  - Part 1 of Schedule 2 further states that:

“The following information about benefits payable under the scheme (referred to in this paragraph as “benefits”)—

(b) how benefits are calculated,

(e) the rate at which rights to benefits accrue, if appropriate,”
16. The Fund say that it has complied with these Regulations as there is no obligation to notify members of a change to late retirement factors. Only how benefits are calculated and the rate at which rights to benefits accrue, neither of which are applicable in Mr E’s case.
17. It also says that given the size of the membership of the Fund it was not unreasonable for it to ask individual employers to contact any members that might be affected by the changes.

## **Adjudicator's Opinion**

18. Mr E's complaint was considered by one of our Adjudicators who concluded that no further action was required by the Fund. The Adjudicator's findings are summarised briefly below:-
- Mr E said that in his case he had the right to be informed of a, "material change" and he understands that the definition of material is "substantial", and he considers £1000 to be substantial.
  - However, the Adjudicator disagreed and explained that the definition of a, "material change" under the Disclosure Regulations applicable to the Fund, relates to the rate at which pension is accrued or how it is calculated. In Mr E's case the change was the reduction to the late retirement factors, and this did not fall within the definition of a, "material change" under these Disclosure Regulations.
  - The Adjudicator appreciated that it was frustrating he was not contacted about the change, but the Fund contacted individual employers in November 2016 and asked for the information about the change to be disseminated to potentially affected members. So, he should have been contacted about this, and the fault in not contacting him does not rest with the Fund.
19. Mr E did not accept the Adjudicator's Opinion and the complaint was passed to me to consider. Mr E 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 E for completeness.

## **Ombudsman's decision**

20. Mr E asserts that the term, "material change" has been interpreted in favour of the Fund, and should have additional wording to explain its meaning.
21. The Fund has stated in the past that it is responsible to inform members "of material changes", but it did not do so in this case and instead left it to a third party, which he considers negligent.
22. However, I agree that the Disclosure Regulations have been interpreted correctly by the Fund, and the reduction to the late retirement factors is not a, "material change" under the provisions of the regulations.
23. This is because they do not change the accrual rate or the basis on which the benefits are calculated, they are variable factors applied to the final benefit calculation.
24. Mr E's benefits have increased in the same way year on year, and are still higher after the application of the, albeit reduced late retirement factors, than they would be without them.

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25. So, the Fund did not have to contact Mr E directly about this, and I do not uphold complaint.
26. However, I also agree that Mr E should have been notified about the changes, and he might now wish to take this issue up with his employer.

**Anthony Arter**

Pensions Ombudsman  
29 August 2018