

## Ombudsman's Determination

Applicant	Mr S
Scheme	Thales UK Pension Scheme ( <b>the Scheme</b> )
Respondent	Thales UK Limited ( <b>Thales</b> )

## Outcome

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

## Complaint summary

3. Mr S has complained that he did not receive the full pension increases for 2017/18, because he retired part way through the year.

## Background information, including submissions from the parties

4. On 30 September 2017, Mr S retired from employment with Thales.
5. On 18 October 2017, Mr S was sent information relating to his benefits within the Scheme. This informed him that the inflation related pension increase would be received on 1 April 2018, and would be pro-rated by reference to the period of time he was in receipt of his pension from the Scheme. Mr S' pension commenced on 1 October 2017, based on this pro-rating calculation, he received 50% of the 2017/18 pension increases, as his pension had only been in payment for six months.
6. Mr S made a complaint that the Scheme Rule specifying the pro-rated calculation for pension increases was inequitable and complained that he was not informed of the pro-rating until after his retirement. He believed the Scheme Rules were discriminatory, because some members of the Scheme would receive full increases if they retired in April 2017.

7. Thales provided its response and the following section from the Scheme's Trust Deed and Rules:

“14.1 The Rate of Pension Increases

(a) The following pensions (or part of a pension) in payment will increase on each 1 April by the smaller of the Pre 1 April 2017 Rate and  $1/365^{\text{th}}$  of the Pre 1 April 2017 Rate multiplied by the number of days since the date pension started.”

It said Mr S' pension increase for that year had been calculated in line with the Scheme Rules. Therefore, it could not agree that Mr S should receive the full pension increases, as he only retired in October 2017.

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

### **Adjudicator's Opinion**

9. Mr S' complaint was considered by one of our Adjudicators who concluded that no further action was required by Thales. The Adjudicator's findings are summarised briefly below:-

- Mr S believes that he should receive the full pension increase, even though his pension did not come into payment until October 2017.
- The Scheme Rules provide a methodology that can be used to calculate a members pension increases. Thales have provided 50% of the annual increase. This is fair and reasonable because Mr S' pension had only been in payment for six months. Therefore, he was not entitled to the full pension increase.
- Thales have a duty to ensure the correct benefits are paid, in line with the Scheme Rules, and this is what it is doing.
- Mr S has argued that he is being discriminated against because had he retired in April 2017, he would have received the full pension increase and not 50%. Someone who retired in April 2017, would have received the full pension increases. But the Scheme Rules, clearly show that increases are calculated based on when the person retired. Therefore, Mr S was not being discriminated against because if someone retired at the same time as him they would also only receive 50% of the increases.
- Mr S believes the Scheme Rules relating to increases are unfair. But, it is completely reasonable for someone who retires part way through the year not to receive the full pension increases for that year.

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10. Mr S did not accept the Adjudicator's Opinion and the complaint was passed to me to consider. Mr S provided his further comments which do not change the outcome. Mr S said the following:
  - He believes the pension was calculated using accrued pension values that were last increased, to reflect inflation, on the 1 April 2017. Therefore, unless the accrued pension values used were increased to reflect the inflation that had taken place between 1 April 2017 and 30 September 2017, his pension increase on 1 April 2018, must justifiably be for the full rate of inflation.
  - He believes the Adjudicator's Opinion makes no reference to the other pension documentation, it only refers to the Scheme Rules. He considers that all documentation should have explained how the pension increases were calculated.
  - He believes the calculations are purely arbitrary and that the findings in the Adjudicator's Opinion implies it is acceptable to reduce initial increases as long as everyone is the same. He believes anyone that does not retire on 1 April, is discriminated against.
11. I agree with the Adjudicator's Opinion and I will therefore only respond to the key points made by Mr S for completeness.

## **Ombudsman's decision**

12. Mr S has complained that Thales are calculating the annual pension increases in an arbitrary way. I cannot agree with this as the pension increases are paid, according to a predetermined formula set out in the rules, dependent on when the persons benefits came into payment. In Mr S' case he started receiving his pension benefits on 1 October 2017. As such, when it came to calculating pension increase in April 2018, he only received 50% of the pension increases, because his pension had only been in payment for six months. Thales is only calculating the annual pension increases in line with the Scheme Rules.
13. Mr S has said that the Scheme documentation, for example the Scheme brochure and annual newsletter, were not clear on how annual increases would be calculated. However, even if the Scheme documentation had, for example, been misleading or incorrect, the Scheme Rules would always override any other documentation. Mr S has not said the information was incorrect just that it was limited and did not provided a detailed explanation of how the increases would be calculated. I do not believe Thales have done anything wrong in putting summaries in scheme documentation. Mr S could have contacted Thales at any point to ask for a detailed explanation on how the pension increases were calculated.

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14. Mr S believes that anyone who retires after April is being discriminated against, because they would not receive the full annual pension increase. It is correct for Thales to make a decision that a person who does not retire on 1 April, will not receive the full year of pension increases. I understand Mr S is dissatisfied with this, but I can see no basis on which he is being discriminated against.
15. I do not uphold Mr S' complaint.

**Karen Johnston**

Deputy Pensions Ombudsman  
23 November 2018