

## Ombudsman's Determination

Applicant	Mr D
Scheme	Mineworkers' Pension Scheme ( <b>the MPS</b> )
Respondent	Coal Pension Trustees ( <b>the Trustees</b> )

## Outcome

1. I do not uphold Mr D'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 D complains that the Trustees did not inform him that the early retirement pension available to him from the MPS since June 2009 would affect his means-tested State benefits. As a result, Mr D considers that he has suffered a significant financial loss.

## Background information, including submissions from the parties

4. Mr D's date of birth is 9 October 1957.
5. Mr D retired early in June 2009 because of ill health. He is receiving a standard early retirement pension from the MPS.
6. Prior to his retirement, the Trustees provided Mr D with details of the benefit options available to him from the MPS in a pack which included a benefit statement. The notes accompanying this statement included the following proviso:

"Your MPS benefits may affect other benefits payable. To avoid problems later you should declare your pension to your local authority if you receive Housing Benefit or Council Tax rebate or to the Department of Work and Pensions (**DWP**) if you are receiving any State benefits.

You may also wish to check the implication of your chosen benefit options on any State or local authority benefit."

7. A letter which was subsequently sent to Mr D describing how and when his chosen early retirement benefits would be paid contained a similar proviso. It also stated that he should keep this letter in a safe place because he might need to let other offices know about the benefits awarded to him in the MPS.
8. In October 2017, Mr D asked the administrator of the MPS, Equiniti Paymaster (**EP**), whether he could suspend his MPS pension payments in order to stop them being deducted from his State benefits.
9. EP replied that DWP would still take the amount of his pension into account when assessing his State benefit entitlement.
10. In November 2017, Mr D complained to EP that he had lost money by retiring early and he would not have done so if he had been made aware by the Trustees that his State benefits would be affected by taking his MPS pension.
11. EP replied that the retirement letters sent to him mentioned that MPS benefits could affect other benefits payable and also stated that he should contact his local authority or the DWP, if appropriate.
12. When EP asked Mr D why he only brought up this issue now, he replied that:
  - his wife had previously dealt with all his MPS correspondence prior to their recent divorce; and
  - it was only now he was dealing with pension matters himself that he has discovered how much money he had lost by taking his pension early.
13. Mr D's complaint at both stages of the MPS Internal Dispute Resolution Procedure (**IDRP**) in December 2017 and May 2018 was not upheld for essentially the same reason given by EP.
14. On 13 December 2017, Mr D contacted the DWP call centre to obtain information about the effect his MPS pension had on his Universal Credit (**UC**) payments. During the call, DWP incorrectly informed Mr D that if he received his MPS pension annually instead of monthly, then it would be taken into account entirely in the month during which his pension was paid when assessing his monthly UC award.
15. In December 2017, Mr D decided to change the frequency of his MPS pension payments from monthly to annually because of this flawed information. Mr D's annual pension at the time was £3,158.48 pa.
16. In March/April 2018, DWP apologised to Mr D for its mistake and the effect that it had on his MPS benefits after he had acted on the incorrect information provided. In recognition of the distress and inconvenience caused by its mistake, DWP awarded Mr D a special payment of £100.

### **Mr D's Position**

17. He was unaware that his MPS benefits had been deducted from his State benefits as "I received my pension separate".
18. He chose to receive his MPS pension early to "boost" his benefit income. If he had known that it would be deducted from his State benefits and he would not be any better off by taking his pension early, he would have deferred receipt of it until his Normal Retirement Date.
19. He says that:

"In 2017, I went onto UC and made enquiries regarding taking my pension annually to be informed I would lose said benefit for one month leaving me £2,500 better off. However, in February 2018 they said that this was not the case and the information I had previously received was wrong. So therefore, I have lost an income of £25,000 - £30,000 up to date. And have been told over the next 5 years I will also lose approximately £15,000."

### **The Trustees' Position**

20. It is sympathetic with Mr D's personal circumstances and his continuing ill health. It cannot uphold his complaint as all retirement letters mention that MPS benefits could affect other benefits that are payable.
21. It was not responsible for the incorrect information provided by DWP about how UC is assessed. Any complaint about this would fall within the jurisdiction of the Director General of the Operations at DWP's complaints team.

### **Adjudicator's Opinion**

22. Mr D'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 briefly below:
  - The Trustees acted appropriately by recommending to Mr D that he should declare his MPS pension to (a) his local authority if he was receiving Housing Benefit or Council Tax Rebate and (b) the DWP if he was receiving State benefits.
  - The Trustees were not obliged to advise him that his early retirement pension in the MPS could affect his entitlement to certain State benefits.
23. Mr D did not accept the Adjudicator's Opinion and the complaint was passed to me to consider. Mr D 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 D for completeness.

## **Ombudsman's decision**

24. Mr D contends that the Trustees failed to adequately inform him that the early retirement pension available to him since June 2009 from the MPS would affect his means-tested State benefits.
25. I do not agree because he received retirement letters which explicitly stated that his MPS benefits might affect other benefits payable and he should declare his pension to DWP if he was receiving any State benefits.
26. It had therefore been open to Mr D to:
  - research the early retirement option and the effect it would have on his State benefits in more detail, seeking independent financial advice, where appropriate; and
  - defer his decision to retire early until he was completely satisfied that it was the correct option for him.
27. The Trustees cannot be blamed for his decision to claim his pension and the effect which that decision had on his state benefits. A guiding principle for means tested benefits such as UC is that they are not paid to people who have other income available to meet the same need. As occupational and private pensions are designed to provide support to help people meet their living costs, they are taken fully into account in the assessment of entitlement to means- tested benefits. For unearned income which is not paid monthly, an amount is calculated as the monthly equivalent. There was consequently no advantage for Mr D to have changed the frequency of his MPS pension to annually from monthly because this had no effect on how DWP would assess his means-tested State benefits. DWP have acknowledged that incorrect information was given to Mr D when claiming universal credit. The Trustees cannot be held responsible for information which was provided by DWP.
28. Although I sympathise with Mr D's situation, I find that there has been no maladministration on the part of the Trustees.
29. For these reasons I do not uphold Mr D's complaint.

**Karen Johnston**

Deputy Pensions Ombudsman  
9 October 2019