

## Ombudsman's Determination

Applicant	Mr R
Scheme	Marine & General Mutual Personal Pension ( <b>the Scheme</b> )
Respondents	Scottish Friendly Assurance Society Ltd ( <b>SF</b> )

## Outcome

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

## Complaint summary

3. Mr R has complained about the tax code being used by SF when paying his annuity. Mr R has also complained that SF has not issued him with statements and has failed to adequately respond to his requests for information.

## Background information, including submissions from the parties

4. In 1994, Mr R purchased an annuity from Marine & General Mutual (**MGM**), which included an annual escalation rate of 3% per annum. This annual increase was applied each June. An annual increase letter was sent to all members each year confirming this increase. MGM also provided Mr R with statements of how much pension it had paid him in line with the Scheme's administration year which was from June-June.
5. On 1 June 2015, SF took ownership of Mr R's annuity from MGM. SF continued to send Mr R an annual increase letter each year, but it did not produce the additional Scheme year statements.
6. In June 2018, Mr R received his P60 for the 2017/8 tax year and discovered SF had underpaid him £643.39, which included an income tax rebate of £368.40. After a protracted exchange of correspondence this sum was paid to Mr R, together with £100 to reflect his distress and inconvenience, on 14 July 2017.

7. On 27 June 2018, Mr R complained to SF on a number of points and asked several questions about how his annuity was administered. Mr R was specifically concerned that SF had not applied the correct tax code to his annuity for the 2017/8 tax year and that it would not issue him with annual statements in line with his annuity year as MGM had previously done.
8. On 2 July 2018, SF responded to Mr R's complaint. It provided a general description of how annuities were purchased when Mr R retired and apologised for applying an incorrect tax code of 'NT' to Mr R's pension. It said that this meant that it had incorrectly not deducted income tax from Mr R's pension for the entire 2017/8 tax year. SF provided a monthly breakdown of the pension it paid to Mr R and the tax it deducted with the complaint response letter.
9. On 31 July 2018, SF sent Mr R an additional response and did not agree that further redress would be appropriate. It said that Mr R should have received a total net income of £6,274.44 in the 2017/8 tax year, however he received a total of £8,201.93. This resulted in an overpaid sum of £1,927.49, that SF said it would not seek to recoup from Mr R. SF also said it would settle Mr R's tax bill for 2017/8 as well as pay him the previously offered award of £100. It further argued that SF would not be able to provide statements in line with his annuity's annual increase date. SF said its Technical Service Team had advised that it could not produce these statements as the anniversary date differed from the normal periods.

## **Adjudicator's Opinion**

10. Mr R's complaint was considered by one of our Adjudicators who concluded that no further action was required by SF. The Adjudicator's findings are summarised below:-
  - In the Adjudicator's opinion, the proposed redress was appropriate. Sums awarded by an ombudsman for non-financial injustice are typically modest. In the Adjudicator's view, the offer SF had made was more generous than an award this office would typically direct a respondent to make.
  - In the Adjudicator's view, it is a common occurrence that many pensioners' annual increase dates do not line up with the start of the UK tax year. In the Adjudicator's opinion, it was adequate for a pensioner, acting reasonably, to establish the correct position on the amount of tax they had paid from a P60. The Adjudicator also said that SF sent Mr R a letter each June that detailed the gross amount payable each year (after the annual 3% increase is applied).
  - The Adjudicator appreciated that Mr R was generally dissatisfied with the standard of service provided by SF since it became the administrator of his annuity. However, in the Adjudicator's view, as SF upheld his complaint and corresponded with him at length, it had answered all of the questions it could reasonably be expected to address.

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

## **Ombudsman's decision**

12. In his comments Mr R has referred to a previous complaint he made to the Financial Ombudsman Service about SF. It is not within the remit of this office to provide comment on investigations made by another Ombudsman and Mr R should approach that office about getting its previous decisions enforced.
13. Mr R argues that an introductory letter from the Chief Executive of SF in 2015 acts as a 'clear commitment' that SF has not honoured, as it no longer provides him with annual statements in line with his Scheme year. I do not find that it is reasonable to take a general statement, included in a mass communication exercise, as a concrete promise in specific, individual circumstances. It is up to SF to determine if it can produce the statements that Mr R requested, and it is entitled to decline Mr R's request. SF produces an annual increase letter, which details Mr R's gross pension for the year ahead, as well as a P60. I find that it would be relatively straightforward for Mr R, acting reasonably, to ascertain the correct position on the tax he has paid using the above documents.
14. Mr R maintains that the position for the 2017/8 tax year is not clear and that the figures SF has provided do not agree with his personal calculations. It is not within the remit of this office to provide actuarial services and independently re-calculate Mr R's tax return. SF has acknowledged that it failed to correctly tax Mr R's income during the 2017/8 tax year. SF upheld Mr R's complaint, has not sought to recoup the overpaid pension and it has addressed the outstanding tax payment with Her Majesty's Revenue and Customs (**HMRC**). Consequently, I find that it does not need to take any further action on this aspect of Mr R's complaint.
15. In his comments Mr R argues that SF has a greater duty of care to him, due to his age and medical conditions. He considers that SF denying him further statements is a discriminatory policy. Mr R correctly states that age is 1 of 9 protected characteristics defined under the Equality Act (2010), however, I do not agree that SF has discriminated against Mr R. Broadly speaking, discrimination is treating a person less favourably because of a characteristic they have (direct discrimination) or applying a policy to everyone that disadvantages a discrete group (indirect discrimination). Mr R is arguing that he deserves a higher level of service, beyond the standard SF is obliged to provide. This is evidently a different thing and consequently, for the reasons outlined above, I do not find that SF has discriminated against Mr R by operating an ageist policy.

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16. Therefore, I do not uphold Mr R's complaint.

**Anthony Arter**

Pensions Ombudsman  
10 January 2019