

Ombudsman's Determination

Applicant	Miss Susan Moody
Scheme	Marks & Spencer Pension Scheme (the Scheme)
Respondent(s)	Marks & Spencer Pension Trust Ltd (the Trustee)

Complaint summary

Miss Moody complaint which is against the Trustee is that it provided incorrect information about the application of the state pension deduction (the **Deduction**).

Summary of the Ombudsman's Determination and reasons

The complaint should not be upheld against the Trustee because there has been no maladministration. The Trustee has dealt with Miss Moody's pension in accordance with the Scheme rules, which states that her state pension age is her 60th birthday. However, the Trustee did provide her with inaccurate or misleading information and she has suffered non-financial injustice as a result.

DETAILED DETERMINATION

Material Facts

1. Miss Moody's date of birth is 18 November 1953. She was employed by Marks and Spencer (the **Company**), but left their employment on 31 December 1991. During this time she was a member of the Scheme. Once Miss Moody left employment, she became a deferred member of the Scheme.
2. The Scheme rules (the **Rules**) have been revised on a number of occasions over the years. At the time when Miss Moody left employment in 1991, the Rules then in force were set out in a Trust Deed and Rules dated 7 August 1984 (**the 1984 Rules**).
3. Rule 5(a) of the 1984 Rules said that on retirement at or after normal Retirement Date, a member would be paid a pension equal to 1/45 of their final pensionable salary for each year of service "less the State Pension Deduction".
4. The State Pension Deduction was defined as
"an amount equal to 1/40th of the full yearly rate... of the basic component of the Category A retirement pension described in the Social Security Act 1975 payable from pensionable age for a single person who fully satisfies the relevant contribution conditions."
5. Rule 5(a) also said that the total amount to be deducted
"... shall not exceed the yearly rate... of the basic component of the Category A retirement pension described in the Social Security Act 1975 payable from pensionable age for a single person... and provided further that the reduction in the amount of the yearly pension due to the State Pension Deduction shall be ignored until the Member reaches pensionable age."
6. Under Rule 15, a deferred member with more than five years' service was entitled to a deferred pension when they reached Normal Retirement Date or pensionable age, whichever was earlier. This would be calculated in the same way as if Rule 5

applied, but with reference to their final pensionable salary at the date of leaving employment (though with a deduction for early payment).

7. The Normal Retirement Date under the Scheme was age 65 for men and age 60 for women.
8. The effect of the Rules was that where a member received their pension under the Scheme before reaching state pension age (**SPA**) they would receive their pension in full, but once the member started to receive their state old age pension, the amount of state old age pension received by them would be deducted from the pension paid to them under the Scheme.
9. The 1984 Rules were amended by a Supplemental Deed date 25 November 1988 (**the 1988 Rules**), but those amendments did not affect Rule 5 or the definitions set out above.
10. The Social Security Act 1975 defined “pensionable age” as
“in the case of a man, 65; in the case of a woman, 60.”
11. Miss Moody was sent a certificate on 30 January 1992 by the Trustee setting out her entitlement on leaving the Scheme. The certificate stated that her normal retirement date is 30 November 2013 and her state retirement date is 18 November 2013. The certificate informed her that when she reached normal retirement date she would be entitled to a pension of £43,380.80, which “takes into account the deduction to be made when you reach state retirement age”. The certificate was accompanied by a “Notes on Preserved Pensions” which states in paragraph 4 under the heading “Preserved Pensions”:

“The Marks and Spencer Pension Scheme is designed to allow for the Basic State Pension earned by the member during membership of the scheme. All staff have a Normal Retirement Age of 60, although men are not entitled to claim the Basic State Pension until they reach 65. If you are a man your certificate will show your entitlement at age 60 and the adjustment at 65”
12. In response to an enquiry from Miss Moody, the Company wrote to her on 23 September 2003 informing her that she could draw her pension from age 50, the amount of benefits she could expect to receive from the Scheme at age 50 and that

her pension would reduce by £1,758 when she reaches SPA. The letter does not state what her SPA was.

13. In July 2007 and November 2010, the Trustee wrote to Miss Moody informing her of the benefits payable on 30 November 2013 from the Scheme. Both letter quoted the Deduction that would be applied at SPA, but did not say what her SPA was.
14. On 26 August 2011 the Trustee wrote to Miss Moody informing her that she may have received a retirement quotation advising her that if she drew her pension early it would reduce from 6 July 2017, the date she expected to reach SPA. The Trustee added that as a result of the Government's proposal to change SPA, it had recently reviewed how the Deduction is applied to her pension. The result of the review was that that part of the Deduction (which relates to the part of her pension that was earned before 17 May 1990) should be applied when she reached age 60 and not 6 July 2017 as previously advised. The letter offered an apology for having provided incorrect information regarding the timing of the deduction.
15. By a Deed dated 20 September 2011 (**the 2011 Rules**), the Trustee modified the Scheme Rules, replacing the existing definition of "State Pension Age" with a new definition:
 - i. for members who left service before 17 May 1990, pension age means, for a woman her 60th birthday, and for a man, his 65th birthday;
 - ii. for members who left after 17 May 1990 but before 1 January 1997, pension age means

for service before 17 May 1990, for a woman her 60th birthday and for a man his 65th birthday

for service after 17 May 1990, the meaning given in the Pensions Act 1995 as originally enacted; being for a man, his 65th birthday and for a woman, an age between her 60th and 65th birthday, depending on her date of birth, as set out in a table;
 - iii. for members who left service after 1 January 1997, the same meaning as in paragraph ii above;

- iv. for a member who falls within paragraph ii and has service both before and after 17 May 1990, the Trustee may, with consent of the Company, make such estimates as they think appropriate in respect of each such period.
16. The change was expressed to be by way of clarification, and to have effect only as consistent with the power to change the Scheme within the Rules and so as not to adversely affect any subsisting rights pursuant to section 67 of the Pensions Act 1995.
17. The explanatory booklet for the Scheme dated April 1997 states, under the section headed "Retiring Early": 'Your retirement income will be worked out on your salary and service when you retire. Remember there will be no deduction for the State Basic Pension until you reach State Pension Age'.
18. Miss Moody complained to the Trustee on 2 September 2011 saying that:
- She was confused by the literature and communications she had received. She had been advised that information provided last November was incorrect and therefore she had no confidence of the information she had been given. She might be wrong but reading between the lines it seemed to her that a change of policy is being dressed up as "incorrect information" provided.
 - She is entitled to a pension on 18 November 2013. The correspondence and estimates she had received had quoted an element of state pension that she will receive from SPA.
 - She received the Spring 2011 Pension Update and read the section regarding SPA increases on page 5. The section was not clearly worded and as most pensioners/future pensioners do not have a copy of the Rules they rely on previous pension statements provided by the Trustee. She inferred from the Update that she will receive a portion of her state pension on her 60th birthday and that the Trustee will deduct that portion from her pension at her current SPA of 6 July 2017 (when she is age 63 years and seven months), and not at her actual SPA on 18 November 2018 (when she is age 65).

- She also assumes that if a male employee had the same date of birth as her and joined and left on the same date, the Trustee would not deduct the state pension until that member's 65th birthday.
19. The Trustee responded to Miss Moody on 17 October 2011 saying that it was legally obliged to administer the Scheme in accordance with the Rules and it has always been the case that the Deduction would be applied at a specific age (between 60 and 65 depending on when the member was born and when they joined the Scheme) and this will continue. In her case the majority of the Deduction relates to service prior to 17 May 1990 and this deduction will apply at age 60. The balance of the Deduction will be applied from the first payment following her current SPA (ie July 2017) and not the date on which her state pension will actually become payable. Dealing with her specific points:
- There has been no change in entitlement, but it is aware that some communication with members over the years has been confusing and it regrets this.
 - The Deduction will come in two stages: an amount of £2,192.11 per annum in November 2010; and a small balance will be deducted on 1 August 2017.
 - Her understanding that the Deduction will relate to historic state pension ages rather than the date at which her actual state pension will now be payable is correct.
 - Pension schemes may treat males and females differently provided this is a result of a link to differing state pension provision. The relevant legal case is Roberts vs Birds Eye Walls.
20. Correspondence between Miss Moody and the Trustee continued. The Trustee wrote to her on 14 December 2011 and requested further information from her about whether she had relied on the information she received and the actual financial loss she has suffered. It asked for details of specific financial transactions she had entered into at the time of or in anticipation of when she intended to take her pension from the Scheme.

21. Miss Moody responded saying that the Trustee had misunderstood the basis of her complaint. She explained that her primary complaint was that because of its gross incompetence over a period of years in communicating information regarding the Deduction, she has only now found out that, with just two years to go before she retires, that the Deduction will come in two stages with the majority being deducted at age 60 and not SPA. As a consequence, she will lose at least £2,000 per annum, plus inflation, until she receives her state pension. Her secondary complaint is that these matters are governed by the Rules which members never receive and as a consequence have to depend on communications, either specific (eg estimates) or general (eg Pension Updates). The Trustee has a duty of care to provide members with accurate information on which to plan for their retirement which it has clearly failed to discharge. Over and above these complaints, she believes that Rule 16.5 of the amended Rules of 6 May 1998 is open to different interpretation.
22. On 25 January 2012 the Trustee wrote to Miss Moody informing her that her complaint had been considered under the Scheme's internal dispute resolution procedures (**IDRP**) and decided that she was receiving her correct entitlement under the Rules. In particular, it was correct to apply the Deduction from age 60. It also confirmed that there was no unlawful discrimination on grounds of sex.
23. Miss Moody took her pension from the Scheme as from 30 April 2012.

Summary of Miss Moody's position

24. Under the 1998 Rules the definition of SPA was amended and this together with the provisions of rules 16.2 and 16.5 meant that the Deduction would not be applied until she reached her revised SPA, i.e. 63 years and seven months, as originally envisaged by the Pensions Act 1995.
25. This was consistent with the Scheme explanatory booklet dated April 1997 which, although by that date she had left the Company, applies equally to her as it was stated to be a guide to permanent staff engaged up to and including 31 December 1995. The booklet informed members that if they retired before SPA, there would be a gap between the start of their pension from the Scheme and start of their state basic pension. Members were advised that "*The Scheme will bridge this gap by*

paying you your M&S pension without any reduction for the Basic State Pension until you reached State Pension Age”.

26. The booklet also advised members that the SPA would eventually be age 65 for everyone and suggested women born after 6 April 1950 should check with the local DSS to find out what their revised SPA would be.
27. In the letters of 23 September 2003, 2 July 2007 and 16 November 2010 she received illustrations of the benefits payable. Each of those letters advised that the Deduction would be applied at her SPA and she understood this to be from her revised SPA as envisaged under the Pensions Act 1995, and as reflected in the 1998 Rules.
28. Since the 1998 Rules there have been several deeds completed but the only deed which specifically affects the date from which the state pension deduction would be applied is the deed dated 20 September 2011. This deed introduced by way of clarification a new definition of “Pension Age” which if applied to her would mean the state pension deduction would be applied in part from age 60 (in 2013). She believes that the terms of the 1998 Rules gave her a subsisting right for the Deduction not to be applied until her revised SPA of 1 August 2018, and to apply part of that deduction before that date would be in contravention of clause 4 of the 2011 Deed and would breach her subsisting right.
29. She gave up work in 2005 to care for her mother full time. Her pension from the Scheme was her main asset, apart from her home, and she had a letter from the Trustee in September 2003 which gave her pension details and stated that her pension would be reduced at SPA. At that time her SPA was July 2017. During the time she was caring for her mother, apart from the carer’s allowance she was not receiving an income. Therefore, she regularly reviewed her current financial situation and likely future pension income. Having been given the same incorrect information from 2003 to 2010, which clearly affected her lifestyle, she believes it is unreasonable and practically impossible to evaluate or provide support for any financial loss.

30. The Trustee had made an offer £500 in recognition the inconvenience to her and although there was no evidence of stress, it recognised in particular that the Deduction would be applied relatively soon after she was informed of the issue. She believes that the Trustee's offer was made in view of the Ombudsman's decision on other cases where it was found that incorrect and misleading information about the Deduction amounted to maladministration and similar awards had been made in recognition of this. She says that the Trustee's offer was not a specific award for distress and inconvenience.

Summary of Trustee's position

31. Miss Moody left service on 31 December 1991 and her entitlement to benefits is governed by the Rules in force at the date when she left service – the 1984 Rules. The 1988 Rules also apply, but did not make any changes in her particular case.
32. The Rules have since been amended at various times. In general, subsequent versions of the Rules are stated to have no effect on the calculation of benefits in respect of previous leavers.
33. In 2011, in light of government changes to the state pension age, the Trustee and the Company undertook a review of the effect of those changes to state pension age on the Scheme's state pension age, and took legal advice on this. It concluded that the correct position was as follows:
- (a) where the Rules define the Scheme's state pension age by reference to statutory provisions, they should be construed by reference to legislation in force as at their date, unless the Rules specifically provide otherwise;
 - (b) in some cases the Rules specifically refer to a designated age as the Scheme's state pension age;
 - (c) the Trustee must, however, ensure that all benefits attributable to service from 17 May 1990 comply with the equalisation requirements imposed by the Barber judgment.

34. The Trustee and the Company entered into a Deed confirming this position in 2011.
35. As stated above, Miss Moody's benefits are governed by the 1984 and 1988 Rules. Rule 5(a) of the 1984 Rules provides that the state pension deduction should be applied at pensionable age. This is to be read by reference to the Social Security Pensions Act 1975. Miss Moody's "pensionable age" is, therefore, 60.
36. The 1984 Rules do contain provisions by virtue of which references to legislation are deemed to be references to modifications and re-enactments (Rule 1(ii)). However, there is no statutory reference included in the reference to "pensionable age" and so this does not apply here.
37. Part of Miss Moody's pension is attributable to pensionable service on or after 17 May 1990 and therefore that part of her pension must be considered against the background of the equalisation requirements in the Pensions Act 1995. The state pension deduction in respect of that period of pensionable service is applied at the date which will be applied at her state pensionable age under that Act, which was age 63 and seven months.
38. It acknowledges that Miss Moody was provided with correspondence which stated that the Deduction would be applied from 2017. However, the provision of incorrect, incomplete or misleading information does not give rise to an entitlement. A member is only entitled to the pension due to them in accordance with the Rules; the Trustee has no power to confer benefits in excess of those under the Rules. The documents were all summary documents and could not reasonably be expected to confer any entitlement.
39. In some cases, a member may be able to show that they acted on the information to their detriment and the Trustee may then be liable to compensate them for any loss they incur as a result of relying on that information, provided they can show it was reasonable for them to have relied on it.
40. Miss Moody claimed that she had based her decisions to give up work to care for her mother full time and not to seek employment following her mother's death on the information provided. She also claimed that she adjusted her lifestyle to a level that was consistent with that which she expected to enjoy with her pension, based

on the information provided. However, she did not provide any evidence to support any of these claims or of an actual financial loss suffered. It may be that Miss Moody made these lifestyle decisions at the time of receiving the quotations she received in 2007 and 2010. However, she has not made that assertion or provided any other evidence to show this was the case. It concluded that, on balance, she has not provided any evidence of actual financial loss.

41. It notes that Miss Moody has been put to some inconvenience in consequence of the information received and offers an award of £500 in recognition of this.

Conclusions

42. This is one of a number of complaints brought by female members of the Scheme about the date when the state pension deduction will be made.
43. Although not referred to as a bridging pension in the Rules, the way pensions are paid under the Scheme is in effect a form of bridging pension – an additional amount is paid to members who retire and start receiving a pension from the Scheme before reaching SPA. When they become entitled to their state pension an amount equivalent to the basic state pension is then deducted from their Scheme pension, so that they continue to receive the same amount of pension overall.
44. The position under the Scheme is that a deduction is made from the member's Scheme pension when they reach SPA (as defined in the Scheme Rules), which is referred to as the "State Pension Deduction". For members who left service before 17 May 1990, this happens at age 60 for women and 65 for men. That is because those were the respective SPAs in force at that time and it was then permissible to have different pension ages for men and women.

45. As a result of the decision in the Barber case, from 17 May 1990 it was unlawful to have different retirement ages for men and women. All pension schemes were required to equalise the retirement age for male and female members. But they did not have to do this immediately – schemes were allowed a period of time (known as the ‘Barber window’) to equalise the retirement ages for men and women.
46. For members who left service before 17 May 1990, the Scheme applies the state pension deduction at age 60 for women and 65 for men.
47. What was not foreseen at the time was that there would be further changes to SPA; the government has made – and is continuing to make – changes to the state retirement age, which will continue to increase (indeed it has recently announced that SPA will increase to 67 on a date between 2026 and 2028 and it will continually review the retirement age in light of the increase in people's life expectancy).
48. The outcome of these changes is that the definition of SPA for the purposes of the Rules has not kept pace with changes in the statutory SPA. So Miss Moody now has a SPA of 63 years and seven months and will receive her basic state pension on November 2018, but she continues to have a SPA under the Rules of 60. The result of this is that a large part of her state pension deduction for this period will be taken in 2013 when she reaches 60. So there will be a gap of five years when her Scheme pension will be reduced but she will not yet be receiving her basic state pension.
49. Miss Moody has not alleged that she is the victim of unlawful discrimination. However, I have received a number of complaints from members of the Scheme about the state pension deduction, each raising different but related issues. During the course of the investigations into these complaints a number of issues arose, including the question of whether there was unlawful discrimination between men and women. I considered that point in another case, where my determination was issued on 10 October 2013 (PO-304 Thew). My conclusions are set out in detail in that published determination and there is no need for me to go through them again in detail.

50. It follows from my conclusion in Mrs Thew's complaint that Miss Moody's has not suffered unlawful sex discrimination, but there remains the question of whether her pension has been dealt with in accordance with the Rules.
51. This question turns on the definition of SPA and, thus, the date at which the Deduction should be applied. Miss Moody understandably considers this to mean the age at which she would actually receive her state pension. However, the starting point for determining a member's benefits is always the Rules, so the definition must be that set out in the Rules.
52. In the 1984 Rules, it is clear that the deduction only comes into effect when the member reaches the age at which they become entitled to their state pension – Rule 5 states that the deduction "shall be ignored until the Member reaches the "pensionable age".
53. There was clearly an intention to smooth pension income – the purpose of the Rule is to ensure that the amount of pension received stays the same regardless of whether any state pension is being paid; no deduction is to be made that is greater than the actual state pension. Although amended by subsequent Deeds, there is nothing in the later Deeds that specifically overrides this. Indeed, the 2009 Rules again say that for members in Miss Moody's situation, the deduction is not to be taken until the member reaches SPA.
54. That leads to the next question, which is what her SPA is.
55. The Trustee says that the reference should be interpreted as being to the state pension arrangements in force at the time of the 1984 Deed – in other words, age 60. The Trustee relies on Rule 5(a) of the 1984 Rules, which refers to a member reaching pensionable age. "Pensionable age" is defined in accordance with the Social Security Act 1975 as, for a woman, age 60.
56. That ignores the clear intention of the Rules to ensure that the deduction only applies to money payable through the state pension. The clear intention is to maintain a level pension both before and after the state pension comes into payment. Otherwise, there would be no point having this Rule at all. The language of this Rule itself does therefore suggest a contrary intention – it says the deduction

should be ignored until the member is entitled to their state pension and should then be deducted to reflect the amount of pension they will receive. Looked at in this way, the language of the Rules is clear in saying the deduction is specifically designed to reflect the state pension a member receives. Accordingly, it should only be deducted when they receive their state pension.

57. However, Miss Moody left service in 1991. She then became a deferred member and her benefits crystallised then. She was entitled to a deferred pension under Rule 15, which would be paid to her when she reached Normal Retirement Date or pensionable age, whichever was earlier. At that point, her pensionable age was defined in Rule 5 of the 1984 Rules – in other words the pension payable from pensionable age under the Social Security Act 1975. That Act defined pensionable age for a woman as age 60.
58. So, the 1984 Rules make it clear that her pensionable age is 60 as defined by the Social Security Act 1975. It follows that the point Miss Moody left and became a deferred member in 1991 her pensionable age – both for the state pension and for the purposes of this Scheme – was 60. It was not, at that point, discriminatory to have different pension ages for men and women.
59. The effect of all of this is that, although there was an intention to ‘smooth’ pensions, this was designed to take effect from the date at which members became entitled to their state pension. Miss Moody became entitled to this at age 60. Accordingly, the Trustee is correct to say that is the relevant age.
60. Miss Moody says that 1998 Rules gave her existing right for the Deduction not to be applied until she was 65, and to apply part of the Deduction before age 65 would be in contravention of clause 4 of the 2011 Rules and would breach her subsisting right.
61. The 2011 Rules say that the relevant meaning is as originally enacted in the Pensions Act 1995. On that basis, Miss Moody’s SPA would again be 60. However, those Rules were to be for clarification only and to have effect only so far as they do not adversely affect any subsisting rights. So what were her existing rights?

62. Miss Moody's existing right under the 1984 Rules was to have the state pension deduction made when she would become entitled to her state pension; which at that point would be when she reached age 60.
63. The fact that the state retirement age has subsequently changed does not mean that the Rules are no longer valid. The legislation changing SPAs does not automatically extend to all references in the Scheme documents; the state pension deduction is not written in terms that require it automatically to track any later changes in the state pension.
64. The complaint as put to me by Miss Moody is that the definition of SPA under the Rules was amended and this meant that the Deduction would not be applied until she reached age 65. There has not, however, been a change to her entitlement under the Rules. The position is that her SPA for the purposes of the Scheme is, and always has been, age 60. The 2011 Rules did not change this; they merely clarified what her entitlement was. The only thing that has changed is the information that has been provided to her. Up to 2011 that information was not sufficiently clear, but since 2011 the information provided has been correct.
65. I therefore find that the Trustee has dealt with Miss Moody's pension in accordance with the Rules; her pension should be reduced from the date when she would reach state pension age, as defined in the various Scheme Rules. This is the clear intention of the Rules.
66. The explanatory booklet to the Scheme refers to the Deduction taking effect from the date the member reaches SPA. This is repeated in the Trustee's letters of July 2007 and November 2010.
67. The Trustee is correct that misleading or inaccurate information does not in itself create a legal entitlement; a member is only entitled to the pension due to them in accordance with the rules of their scheme. But the provision of inaccurate or misleading information is maladministration.

68. If Miss Moody can show that she relied on the information to her detriment, she may pursue a claim in respect of any loss she has suffered as a result. The Trustee considered this point but concluded that on balance she has not provided sufficient evidence to demonstrate actual financial loss.
69. There is no doubt that the information provided to Miss Moody has been incomplete. References were made to the deduction being taken from her pension when she reaches SPA, with little explanation of what that term meant. It was only in 2011 that the correct position was explained.
70. Miss Moody could have worked her way through the various Scheme Rules to try to work out for herself what that meant for her. Bearing in mind, however, that the Scheme Rules had been changed over the years, it would be unreasonable to expect her to have done that. I would not have expected her to waded through trust deeds and legal jargon to try to understand what it all meant. I have no doubt that she took the term SPA to mean the age at which she would receive her state pension. In the absence of adequate definition or explanation that would be a reasonable approach for her to take. The members' handbook said the deduction would not be more than the state pension, but also included the statement that, for women, they would receive their state pension at age 60. So there was an indication that the deduction would apply from age 60. At the time that information was given, it was accurate; the Trustee would not have known at that time of the changes subsequently introduced by the government. It was not until 2011 that the position became clear.
71. Taken together, the information provided was inconsistent and unclear. It is easy to see how Miss Moody might not have been clear whether the Deduction would apply when she reached age 60 or when she actually received her state pension.
72. The next question, therefore, is whether she acted on the information given to her detriment.
73. The Trustee concluded that Miss Moody did not provide any evidence to support her claim that based on the information provided she had adjusted her lifestyle to a level that was consistent with that which she expected to enjoy or of an actual financial loss.

74. The Trustee was right to ask for, and consider, details from Miss Moody about her financial circumstances. In September 2003, July 2007 and November 2010 she was given information that stated her pension would reduce at SPA. At the time her SPA was July 2017. She gave up work in 2005 to care for her mother full time and apart from a carer's allowance she was not receiving an income. While I agree that she had to manage on a low income after she had given up work to care for her mother, I am unable to conclude that she acted to her detriment as a consequence of the information she received. Miss Moody did not take her pension from the Scheme until 30 April 2012 and she has not said what she would have done differently had she been given the correct information or what financial loss she has suffered.
75. In my judgment, Miss Moody has not demonstrated that she did rely on the information provided to her. Consequently, I do not consider that she has suffered any financial loss.
76. However, the Trustee has acknowledged that Miss Moody was given misleading information and undoubtedly she has suffered considerable distress at learning that the pension she is entitled to receive will be less than the pension she expected. I shall therefore direct the Trustee to make a payment to reflect the distress caused.
77. The process of deciding on a payment for distress can never involve a simple calculation as it would for a financial loss; by its nature, it is not an exact science. I will look to take into account the particular circumstances of the individual, but will also take a wider view and ask whether a reasonable person (with those characteristics) would have reacted in the same way. It is a matter of judgement. The individual circumstances of those making these complaints are not identical, but in each case the crux of the matter is that they were given an expectation for some time of a certain level of retirement income only to find that in fact they will be living on a lower income and will have to adjust their finances accordingly. There will be considerable distress for anyone who finds themselves in that situation.
78. The amount of such awards may range from £150 to £750 (and very occasionally more). Awards within the range of £400 to £750 might be where there are emotional issues or cumulative effects rather than a simple issue of poor customer service. In

my view, this case does not fall within that bracket and the award I have made is an appropriate remedy in this case.

Directions

79. I direct that within 28 days the Trustee make a payment to Miss Moody of £200 in respect of the distress and inconvenience caused to her.

Jane Irvine

Deputy Pensions Ombudsman

19 December 2014