

Ombudsman's Determination

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| Applicant | Mr N |
| Scheme | Zurich Financial Services UK Pension Scheme (ES Tier) (the Scheme) |
| Respondent | Zurich Assurance Ltd (Zurich) |

Outcome

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

Complaint summary

3. Mr N has complained that Zurich is not paying increases on the pre-1988 element of his Guaranteed Minimum Pension (**GMP**), even though he is not receiving these increases from the State.

Background information, including submissions from the parties

4. Mr N was an active member of the Scheme between 10 March 1980 and 31 December 1992, when his pension became deferred.
5. Mr N took early retirement at age 50, and began receiving his benefits on 9 January 1996. His pension had a GMP element, which meant when he reached state pension age (**SPA**) of 65, he was guaranteed a pension of a certain amount.
6. From age 50 to 65, Mr N was receiving his pension benefits early. When he reached age 65 (9 January 2011), his GMP became payable. It was at this point Mr N became aware that the pre-1988 element of the GMP would not receive increases from the Scheme, whereas other elements of the GMP would.
7. On 12 January 2011, just after Mr N turned age 65, he received a letter from the Pensions Service advising him of his state pension benefits. This also did not include increases on the pre-1988 element of his GMP, which he believed it would. On 16 September 2011, Mr N initiated the complaints process with Zurich.

8. Mr N's arguments are as follows:

- He will not receive increases from the State on the pre-1988 element of his GMP unless his pension is lower than the additional state pension. In lieu of this he believes Zurich should pay the increases.
- He considers the Scheme should amend the Trust Deed and Rules (**the Rules**), to award increases on the pre-1988 element of the GMP when the State does not pay these increases.
- He thinks he is being disadvantaged purely because he took early retirement which he considers to be unfair.

9. Zurich's arguments are as follows:

- Mr N will not receive increases from the State because of the way his pension was being re-valued, between when he began taking his benefits and when he reached SPA.
- It is not responsible for paying increases on the pre-1988 element of his GMP.
- The Rules differ for each Scheme member, this is dependent on their individual circumstances. This meant as Mr N chose to retire early his increase may differ to someone who did not take early retirement.

Adjudicator's Opinion

10. Mr N's complaint was considered by one of our Adjudicators who concluded that no further action was required by Zurich. The Adjudicator's findings are summarised briefly below:

- GMPs were set up by the Government to ensure that a person would receive a pension of a certain amount when they reached SPA, and Mr N's pension is in line with the set amount. Increases on different elements of the GMP are paid by either the Scheme or the State to ensure the minimum amount is reached. The pre-1988 element of the GMP will sometimes be increased by the State if it does not exceed the additional state pension amount. In Mr N's case his pension did exceed the additional state pension and therefore the State was not required to pay further increases.
- The Pensions Ombudsman Service's role is to make sure that Schemes act correctly and comply with the law. In this case Zurich has acted appropriately and is paying increases on the elements of the GMP that it is legally required to make. It has no obligation to pay increases on the pre-1988 element of his GMP, even when these are not paid by the State, and therefore is not obliged to amend the Rules to this effect.

- The Rules will be different dependent on the individual members circumstances and although Mr N may be being treated differently to other members because he chose to retire early this does not mean that Zurich is acting unfairly.

11. Mr N did not accept the Adjudicator's Opinion and the complaint was passed to me to consider. Mr N provided his further comments which do not change the outcome. I agree with the Adjudicator's Opinion, summarised above, and I will therefore only respond to the key points made by Mr N for completeness.

Ombudsman's decision

12. My role is to decide whether Mr N has suffered an unremedied injustice as a result of maladministration. Zurich has followed the requirements set out in legislation and it has no duty to pay increases on the pre-1988 element of the GMP, even when the State is not paying any increases. Therefore, there has been no maladministration in this case. I would not instruct Zurich to amend the Rules to provide annual increases on the pre-1988 element of the GMP, as it has no legal obligation to make these payments.
13. Mr N considers that Zurich has failed in its duty to act fairly between members and he believes that he is being disadvantaged because he took early retirement. I can only look at the circumstances of the complaint in front of me and I am satisfied that Mr N is receiving the benefits that he is entitled to under the Rules.
14. Therefore, I do not uphold Mr N's complaint.

Anthony Arter

Pensions Ombudsman
22 July 2016