

Ombudsman's Determination

Applicant	Mr N
Scheme	Motorola Pension Scheme (the Scheme)
Respondents	The Trustees of the Scheme (the Trustees)

Outcome

1. I do not uphold Mr N'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 N complained that he was provided with misleading information regarding the value of his benefits and the Trustees have refused to honour the figures contained within an on-line benefits projection.
4. Mr N complained that, as a result, his benefits were less than he had been led to expect.

Background information, including submissions from the parties

5. In 1999 Mr N left his employment at Motorola and became a deferred member of the Scheme. The Scheme's normal retirement age is 65.
6. In March 2014 Mr N accessed the Scheme's on-line portal and obtained a projection of what his benefits would be if he retired at age 60.
7. Unfortunately, the figures produced by this projection were incorrect because it failed to properly take into account a period of transferred in service.
8. In light of the figures provided in the on-line projection, Mr N decided to retire at age 60 and informed his current employer of his intention. He also contacted the Scheme administrators to request that they provide him with a formal benefits illustration, showing the amount of pension he would receive if he started taking his pension at age 60.

9. On 6 May Mr N left his current employer and retired.
10. On 12 June the Scheme administrators wrote to Mr N with his requested formal benefits illustration. This illustration contained the correct figures.
11. In July Mr N's pension went into payment and he contacted the Scheme to query the reduction in his pension and to complain about the situation.
12. On 3 August the Scheme wrote to Mr N and provided him with a detailed response to the issues he had raised, including why there was a discrepancy between the figures contained within the on-line projection and the subsequent formal illustration. The Scheme explained why the Trustees could only pay benefits in accordance with the requirements of the Scheme Rules and, as such, Mr N was only entitled to receive the lower correct amount of pension.
13. On 4 August Mr N wrote to the Trustees to complain under stage one of the Scheme's internal dispute resolution procedure (**IDRP**). In this letter, he set out the history to his complaint and argued that, as the Scheme encouraged Members to use the on-line portal, the Scheme should honour the higher pension figures provided to him in the on-line illustration. He acknowledged that there was a legal argument to support paying him the lower amount but he felt that the Scheme had a moral duty to pay him the higher amount.
14. On 19 August the Trustees wrote to Mr N with the Scheme's stage one IDRP response. In their response the Trustees explained that, while the on-line portal contained a retirement calculator which allowed Members to run early retirement quotations, there were several warnings clearly displayed which advised Members that they should not rely upon any information provided in these quotations.
15. The Trustees apologised for the error in the on-line illustrations provided and said that they were working with the Administrators to prevent this type of problem happening again. Finally, the Trustees said that the information on the website did not create an entitlement to an amount in excess of that provided for in the Scheme Rules.
16. On 27 October Mr N wrote to the Trustees with his stage two IDRP appeal. In his appeal, Mr N said that he did not see why he should have to suffer a shortfall in his expected pension because of errors made by the Scheme. He argued that he had been mis-sold his pension because the information contained in the Scheme's on-line portal was incorrect and the Administrators had delayed in sending him a formal benefits illustration.
17. On 1 December the Trustees wrote to Mr N with their stage two IDRP response. The Trustees repeated that the on-line retirement calculator contained several warnings about its usage, and specifically stated that Members should obtain a formal benefit

illustration before making any decisions, and should not rely upon the figures contained in any on-line projection in isolation.

18. The Trustees again apologised for the errors which led to Mr N being provided with an incorrect projection and for the delay in the Administrators sending him a formal benefits illustration. In light of these failings the Trustees offered Mr N £500 in compensation, but said that they were unable to pay him the higher, incorrect, amount because they were obliged to pay benefits in accordance with the Scheme Rules.
19. On 18 December Mr N wrote directly to the Chairman of the Scheme to raise his concerns. He said that he should have been able to rely on the figures provided to him via the on-line portal and that he was not responsible for the errors which caused the Scheme to calculate his benefits incorrectly. As such, he argued that he was suffering a shortfall in his pension of £1,375 per annum and this would cost him in the region of £27,500 over the course of his life time. He also rejected the £500 compensation award.
20. On 6 Mar 2015 the Chairman replied to Mr N. He said that, having reviewed all the relevant information, he did not believe it was reasonable for Mr N to have relied upon the on-line calculator projection and the website contained clear disclaimers that the amount payable at retirement may differ from the on-line estimate. As such, the Chairman said that he was satisfied that Mr N's benefits were being paid in accordance with the requirements of the Scheme Rules. He did not consider that it was reasonable for Mr N to have reached his decision to take early retirement before obtaining a formal quotation of his expected benefits.
21. Mr N subsequently complained to this service.

Adjudicator's Opinion

22. Mr N'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:
 - Mr N was provided with incorrect information and this amounted to maladministration on the part of the Trustees.
 - Mr N has not suffered a direct financial loss as a result of the provision of the incorrect information.
 - The Trustees have now correctly calculated Mr N's entitlement and this is the amount of pension he is being paid.
 - Mr N has no entitlement to the higher, incorrect, amount of pension.

- The Trustees have offered an appropriate level of compensation for the maladministration identified.

23. Mr N did not accept the Adjudicator's Opinion and the complaint was passed to me to consider. Mr N provided his further comments many of 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

24. I am aware that Mr N has argued that the on-line projection he received misled him as to the amount of pension he could expect to receive and, as a result, he should be paid the higher pension figure contained within the incorrect projection. He says that it is unreasonable for the Trustees to seek to rely upon the 'small print' to defend their actions and the level of compensation offered is too little, when he has lost over £27,000 because of their errors. (Mr N has calculated his loss by multiplying the difference between the two pension figures by his number of years he expects to live.)
25. While I am satisfied that the provision of the incorrect on-line projection amounts to maladministration on the part of the Scheme, I do not consider that Mr N has suffered a direct financial loss as a result of the provision of this incorrect information. His entitlement flows from the scheme rules.
26. Mr N is only entitled to receive the correct amount of benefits from the Scheme and this is what he is being paid. The provision of the incorrect statement produced a loss of expectation rather than a direct financial loss.
27. I appreciate that Mr N says that he retired as a consequence of the provision of the incorrect figures, but given the very clear warnings and disclaimers attached to the figures contained within the on-line projection, I do not consider it was reasonable for him to have that reached his decision to take early retirement solely upon these figures and before obtaining a formal quotation of his expected benefits. I do not view the clear warnings provided about the use of figures provided in on-line projection as 'small print', but rather a very sensible inclusion to advise users that the amount payable at retirement may differ from the on-line projection.
28. Finally, I turn to the question of whether the level of compensation offered is appropriate for the circumstances of the case. In this respect, I am aware that the Trustees have offered Mr N £500 in compensation for the distress and inconvenience caused to him and, on balance, I am satisfied that this is an appropriate amount for the circumstances of this case and is in line with awards in similar cases.

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29. Therefore, I do not uphold Mr N's complaint.

Karen Johnston

Deputy Pensions Ombudsman
10 June 2016