

Ombudsman's Determination

Applicant	Mr N
Scheme	GE Pension Plan (the Plan)
Respondent	Aon Hewitt (Aon)

Outcome

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

Complaint summary

3. Mr N's complaint concerns the miscalculation of his pension benefits. Mr N says that following this misinformation, he decided to take redundancy and retire. He contends that this irreversible decision has limited his future income.

Background information, including submissions from the parties

4. On 17 July 2017, the Plan administrators, Aon, wrote to Mr N regarding the benefits that were available to him from 14 November 2017. Aon outlined the benefits available and told Mr N that he would be entitled to an annual pension of £38,546.12 and a lump sum of £256,974.10.
5. On 13 November 2017, Mr N took voluntary redundancy from GE and retired.
6. On 14 December 2017, Aon wrote to Mr N and explained that there had been an error in calculating his benefits. It stated Mr N would be entitled to an annual pension of £34,117 and a lump sum of £227,447.
7. On 19 December 2017, Mr N complained. Mr N said that he made a life changing decision to retire from GE based on the incorrect pension benefits.
8. On 16 January 2018, the GE Pension Trustees Limited (the Trustee) responded to the complaint. The Trustee explained it can only pay the benefits provided under the Plan rules. It also said that the Plan administrator, Aon, would be in contact.

9. On 23 January 2018, Aon wrote to Mr N and asked him for some financial information to help Aon decide whether it should uphold his complaint.
10. Mr N wrote to Aon and explained that his annual salary was £141,000 with an additional car allowance of £7,500. He also said that he received an annual bonus, which was £25,000 in 2017. He confirmed that he had a mortgage to pay and two children, aged 16 and 19, to support.
11. On 12 February 2018, Aon asked for further details concerning Mr N's financial position.
12. On 22 February 2018, Mr N wrote to Aon to provide details of his financial position. Amongst other things, he confirmed that he received a redundancy payment of £97,892 and a payment in lieu of notice of £35,350. He also confirmed that he had savings of £55,000. He said that his mortgage amounted to £55,000 and he had two car loans where he owed a combined total of £26,500. He confirmed that his monthly outgoings were £2,490, including mortgage and loan commitments.
13. On 14 March 2018, Aon wrote to Mr N and confirmed that it had arranged for his benefits to be paid. It confirmed that his annual pension was £34,330.25 per year. It confirmed that his tax free lump sum was £226,100.00. When compared to the July 2017 statement this was an annual reduction of £4,215.87 and a lump sum reduction of £30,874.10.
14. On 13 April 2018, Aon, having considered Mr N's financial position, rejected the complaint. Aon felt that Mr N would still have chosen to retire even if he had been provided with the correct figures. Aon made an offer of £2,000 to cover the distress an inconvenience caused.
15. On 2 October 2018, GE wrote to this office and said that, "Mr N's decision to leave GE in November 2017 was entirely his decision." GE concluded:-

"If Mr N had stayed beyond 2017 and applied for a [voluntary redundancy] this year, we would obviously look at his application favourably.

And right now I can see no reason why we would not allow any such application."

Adjudicator's Opinion

16. Mr N's complaint was considered by one of our Adjudicators who concluded that no further action was required by Aon. The Adjudicator's findings are summarised below:-
 - The quotation of incorrect benefits does not automatically entitle Mr N to the incorrect, higher figures. In order to for a defence of detrimental reliance to succeed Mr N would have to prove that there was a causal link between the receipt of the incorrect information and his decision to retire.

- The Adjudicator believed that Mr N's actual redundancy payment of £133,242 would have been a significant consideration in Mr N's decision to take redundancy and retire.
 - The Adjudicator also considered Mr N's submission that his employer, GE, would have allowed him to work for another year before taking his redundancy. Although GE provided a letter saying that it would look at a present-day application for redundancy favourably, the Adjudicator did not think this went far enough. As there was no evidence that the redundancy agreement, paid in December 2017, was guaranteed for another year, the Adjudicator did not think that Mr N could rely on the argument that he could have deferred his redundancy.
 - The Adjudicator explained that he needed to assess Mr N's position at the time the incorrect information was provided. Given that the redundancy agreement was not guaranteed to be available the following year, the Adjudicator did not believe it was reasonable for Mr N to risk his redundancy payment of £133,242 in order to make up the shortfall in his pension.
 - As he was not satisfied that the incorrect quotation was the main reason Mr N retired, the Adjudicator did not believe that Mr N could successfully argue that he has suffered financial loss as a result of Aon's maladministration.
 - The Adjudicator agreed that Mr N would have suffered distress and inconvenience. He believed that Aon's offer of £2,000 was at the higher end of the awards that the Ombudsman would issue, so felt that Aon's offer was reasonable.
17. 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.
18. Mr N said that the Adjudicator's inference, that it is only with hindsight that he would have known that he could have continued to work for another year and still accepted the redundancy package, was incorrect. Mr N said that he was completely aware of the need for redundancies in 2018, so there would have been no risk to his redundancy payment. He also said that he only agreed to leave once he had received his, incorrect, pension quotation. He contends that if his decision to take redundancy was not dependant on his benefit values, he would not have waited for benefit quotations before taking his redundancy.
19. I agree with the Adjudicator's Opinion and I will therefore only respond to the key points made by Mr N for completeness.

Ombudsman's decision

20. Normally when an individual has been provided with misinformation concerning their pension benefits, they are only entitled to their correct entitlement from the Plan. In considering Mr N's complaint, I must assess to what degree he relied on the

information and how he might have acted differently, if he had been aware of the true situation.

21. Where there is a dispute about what an applicant would have done had they received correct information, I must make my findings based on the balance of probabilities. In other words, I must judge what is most likely to have happened taking all the facts into consideration. In Mr N's case, this includes assessing whether there are any other factors, such as the offer of redundancy, which may have influenced his decision to retire.
22. Mr N's redundancy package amounted to £133,242. Mr N has argued that this package would have remained on the table had he continued to work for another year. During his employment with GE, Mr N reached an executive level, so he says that he was aware of the extent of reduction targets that the company had to meet. He says that those reductions have been realised and redundancies have continued up to the present day.
23. Given that the incorrect figures overstated Mr N's annual benefits by £4,215.87 and his lump sum by £30,874.10, I must consider whether it was likely that Mr N would have postponed his redundancy and retirement had he been given the correct figures. I have considered what Mr N has said about being a senior member of GE and the access he would have had to its future plans; however, there is no evidence that the pensions element of the redundancy package was guaranteed and, although GE has confirmed that a present-day application would be viewed favourably, it is only with a degree of hindsight that Mr N can confidently say that the redundancy offer would still be available to him.
24. I am not persuaded by Mr N's argument that his senior position allowed him the foresight to predict that redundancy would have continued to be an option a year later. I understand that he was aware of savings that needed to be made and a plan to cut jobs. However, there was no guarantee that the redundancy plans would continue to remain an option to employees. This would fall outside of his control and I do not find, on the balance of probabilities, that Mr N would have been willing to risk his redundancy package in order to make up for the shortfall created by the incorrect quotation.
25. Mr N has argued that he delayed his redundancy until he had been provided with figures from Aon. He contends that this delay shows that he was reliant on the incorrect information. It is clear, from the facts of the case, that Mr N waited until he received Aon's quotation before he decided to take the redundancy and retire. I agree that the incorrect figures would have been considered when Mr N took his decision to retire, however I believe that had he been provided with the correct information from the outset, it is likely his decision to retire would have remained the same.
26. In conclusion, Mr N is only entitled to receive the benefits provided for under the rules that govern the Plan. The difference in the quoted level of pension benefits does not

represent actual financial loss, because Mr N was never entitled to the higher benefits quoted in error. What he has suffered is a loss of expectation.

27. I sympathise with Mr N's loss of expectation; Aon's actions amount to maladministration and I agree that the errors would have caused Mr N significant distress and inconvenience.
28. Aon has offered to pay Mr N £2,000.00 in respect of the distress and inconvenience that it caused. I consider the offer that Aon has made is reasonable and, therefore, I do not believe a further award to be appropriate.
29. I do not uphold Mr N's complaint.

Anthony Arter

Pensions Ombudsman
9 November 2018