

## Ombudsman's Determination

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| Applicant  | Mr S   |
| Scheme     | Teachers' Pension Scheme ( <b>the Scheme</b> ) |
| Respondent | Teachers' Pensions ( <b>TP</b> )               |

## Outcome

1. I do not uphold Mr S' complaint and no further action is required by TP.

## Complaint summary

2. Mr S complained that his request to backdate his election for Faster Accrual (**FA**) of his pension to 1 August 2020 was rejected.

## Background information, including submissions from the parties

3. The sequence of events is not in dispute, so I have only set out the salient points. I acknowledge there were other exchanges of information between all the parties.
4. Mr S was a member of the Scheme, a public sector defined benefit occupational pension scheme governed by the Teachers' Pension Scheme Regulations 2014 (**the Regulations**), until 2018. He re-joined the Scheme in August 2019 when he began employment with St Mary's University College.
5. Under the 2015 section of the Scheme, Mr S had the option to use FA and increase his accrual rate from the standard rate of 1/57th of pensionable pay to 1/45<sup>th</sup>, 1/50<sup>th</sup> or 1/55<sup>th</sup>. According to the Regulations, Part 3, Chapter 1, Section 22:

"A faster accrual election must be made—

4 (a) if P was not in pensionable service in relation to that employment in that financial year, within one month after P enters pensionable service in relation to that employment; or

(b) otherwise, in the financial year before the financial year to which it relates.

(5) A faster accrual election has effect as follows—

(a) if sub-paragraph (4)(a) applies, from one month after the election is received by the scheme manager; or

(b) otherwise, from the start of the financial year to which it relates.”

6. According to the Regulations, Part 3, Chapter 1, Section 24, an FA election is accepted when a person receives notice from the scheme manager.
7. In September 2019, Mr S received information about FA, and specifically about the requirement to submit an FA election application within one month of re-entering pensionable employment.
8. On 13 January 2020, Mr S contacted TP through his online account. He enquired about transferring pension benefits into the Scheme, FA, and purchasing additional pension.
9. On 14 January 2020, in response to Mr S’ enquiries, TP sent Mr S information about FA. Within this response, TP stated:

“Mid-year entrants have 1 month from entering to apply for the remainder of that scheme year. Members purchasing Faster accrual who then change their employer have 1 month to apply on a new application for their employer to continue taking contributions.”
10. On 1 August 2020, Mr S commenced employment at De Montfort University (**DMU**).
11. On 11 August 2020, Mr S sent an FA request (**Request 1**) through his online account.
12. On 24 August 2020, in response to Request 1, TP sent Mr S information about FA elections (**Faster Accruals Election Information**). Within this response, TP stated:

“You must make an election in the year before you want it to take effect. Ideally this election will be before the end of January. Each election lasts for one financial year and begins on the 1 April. If you enter teaching midyear you can make an election for that year, but you must make it within a month of entering service.”
13. On 26 August 2020, Mr S submitted another FA request (**Request 2**) through his online account. He informed TP that he had previously submitted a request. TP sent Mr S a response including the Faster Accruals Election Information.
14. On 8 September 2020, Mr S sent another FA request (**Request 3**) through his online account. He asked TP to confirm that the new FA rate was being applied to his pension. On the same day, Mr S submitted an FA election (**the Election**) through his online account.
15. On 9 September 2020, in response to **Request 3**, TP told Mr S that it had no record of an FA election being made regarding his pension before 8 September 2020. TP

informed Mr S that it had received his election application, and that it would be processed for the 2021/22 tax year.

16. On 8 September 2020, TP sent Mr S a letter confirming that his FA election was accepted on 10 September 2020 for the 2021/2022 financial year and applied from 1 April 2021.
17. On 14 September 2020, Mr S asked TP why his FA election commencement date did not match the date that he became employed by DMU.
18. In its response on 23 September 2020, TP said it had not received notification of Mr S' new employment. TP said that despite this, it could amend Mr S' FA start date to match the date he became employed by his new employer. TP has since stated that this was based on its assumption that the start date of Mr S' new employment was 1 September 2020.
19. On 19 September 2020, Mr S asked TP whether his FA election was in place and whether the relevant deductions to his salary were being made.
20. On 2 October 2020, DMU informed TP that Mr S started his employment at DMU on 1 August 2020.
21. On 27 November 2020, Mr S requested that the FA of his pension apply from 1 August 2020. On 15 December 2020, TP rejected this request on the basis that Mr S had not submitted an FA election within one month of starting his employment with DMU.
22. On 27 November 2020, Mr S submitted a complaint to TP.
23. On 30 December 2020, in response to Mr S' complaint, TP said it could not accept Mr S' request for the FA election to start from 1 August 2020.
24. Mr S submitted an appeal under the Scheme's Internal Dispute Resolution Procedure (**IDRP**). The appeal was rejected on the basis that:
  - there was no evidence that Mr S had completed an FA application form and sent it to TP within one month of his return to pensionable employment; or
  - that TP had received or accepted such a form, and so:
  - the Regulations were correctly applied in Mr S' case.

### **Summary of Mr S' position**

25. TP should take 1 August 2020 as his FA start date, as he had already submitted requests for FA deductions in August 2020.

## **Summary of TP's position**

26. In order for Mr S to achieve FA of his pension, he needed to submit an election for them. He was informed of this multiple times. He was also informed of the necessary timescales within which to make an FA election. If he had submitted an election for FA on 11 or 26 August 2020, he would have achieved an FA start date of 1 August 2020.
27. TP must administer the Scheme in accordance with the Regulations; there was no provision within the Regulations for it to backdate FA.
28. There is no record of an FA election being made regarding Mr S' pension before 8 September 2020.

## **Adjudicator's Opinion**

29. Mr S' complaint was considered by one of our Adjudicators who concluded that no further action was required by TP. The Adjudicator's findings are summarised in paragraphs 30 to 31 below.
30. While the online submissions Mr S made on 11 and 26 August 2020 were requests for FA, they were not elections, and following both submissions Mr S was given information explaining that an election needed to be made. So, he should have been aware that he needed to take further action in addition to the requests he had made. He did not take such action until 8 September 2020, when he submitted an FA election. In the Adjudicator's opinion, TP could not be held responsible for Mr S not taking the action necessary to progress his FA application.
31. TP applied the Regulations correctly when setting the date from when Mr S' FA applied. So, in the Adjudicator's opinion, there was no maladministration by TP in this regard.
32. Mr S did not accept the Adjudicator's Opinion and the complaint was passed to me to consider. Mr S provided his further comments, which I have considered but they do not change the outcome. Mr S said:-
  - TP confused his DMU employment commencement date with his St Mary's University employment commencement date, despite him informing TP of his new employment role at DMU. It then denied making any errors. If it had instead acknowledged its errors, this issue could have been resolved easily.

## **Ombudsman's decision**

33. Mr S complained that his request to backdate his FA election to 1 August 2020, the date he entered pensionable employment at DMU, was rejected.
34. On 24 August 2020, TP informed Mr S that he must make an FA election during the year before in which he wants it to apply. It also informed him that if he enters

teaching mid-year and wants FA to apply to that year, he must apply for FA within one month of entering service. These requirements are set out in the Part 3, Chapter 1, Section 22 of the Regulations that govern the Scheme.

35. So, in order to achieve his desired FA election date of 1 August 2020, Mr S needed to submit an FA election by 1 September 2020. Mr S did not submit an FA election until 8 September 2020.
36. I have seen no evidence to suggest that TP confused the date Mr S commenced employment with DMU with his St Mary's University employment commencement date.
37. There has been no maladministration, or any errors, on the part of TP through its refusal to backdate Mr S' FA election to 1 August 2020. I find that TP has applied the Regulations correctly.
38. I do not uphold Mr S' complaint.

**Anthony Arter CBE**

Deputy Pensions Ombudsman  
20 April 2023