

## Ombudsman's Determination

Applicant	Mr E
Scheme	Ernst & Young Pension Plan ( <b>the US Plan</b> )
Respondent	Ernst and Young LLP ( <b>Ernst and Young</b> )

## Outcome

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

## Complaint summary

3. Mr E has complained that Ernst and Young are excluding his UK service when calculating his pension benefits.

## Background information, including submissions from the parties

4. From 1977 to 1981, Mr E worked for Ernst and Young in the UK and from 1981 to 1994, he worked for Ernst and Young in the United States (**US**). Ernst and Young sponsored the Arthur Young McClelland Moores and Co Pension Plan (**the UK Plan**) for UK employees and the US Plan for the US employees.
5. The rules of the UK Plan provide that an employee must be aged 28 or over to be eligible to be a member. During the time Mr E worked in the UK for Ernst and Young he was under the age of 28. Therefore, he was not eligible to be a member and he did not pay any contributions at this time and neither did his employer.
6. Mr E was a member of the US Plan from 1981 to 1994.
7. Mr E raised a complaint with Ernst and Young saying that he wanted to start taking his benefits in 2018, and he considered the UK Plan, should provide payment to the US Plan for his service from 1977 to 1981.
8. Ernst and Young responded to his complaint on 22 November 2016, it said Mr E was never a member of the UK Plan and for this reason it would not pay benefits into the US Plan, to cover that period of service. Furthermore, it explained that the service Mr

E completed in the UK was when he was under the age of 28. The UK Plan, booklet under eligibility says:

“Am I eligible to join?

You are eligible to join the Plan for pension benefits if:

- (a) You are a full-time permanent staff employee and are not a student under a training contract with the firm; and
- (b) You have attained the age of 28 but not 65 (if male) or 60 (if female).”

9. Mr E continued with his complaint but remained dissatisfied so brought his complaint to the Pensions Ombudsman.

### **Adjudicator’s Opinion**

10. Mr E’s complaint was considered by one of our Adjudicators who concluded that no further action was required by Ernst and Young. The Adjudicator’s findings are summarised briefly below:
- The Pensions Ombudsman is only able to investigate complaints about pension schemes administered in the UK. Therefore, the UK element of the complaint was the only part investigated.
  - Mr E was never a member of the UK Plan. He was not eligible to join and so never paid any contributions.
  - Ernst and Young have not acted incorrectly in declining Mr E’s request.
11. Mr E did not accept the Adjudicator’s Opinion and the complaint was passed to me to consider. Mr E 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 E for completeness. In particular that:
- Any employee of an international organisation should receive a retirement pension for their entire service with that organisation, in Mr E’s case 17 years.
  - That country specific pension plans should contain provisions addressing mobility for employees who transfer to different countries, and that absence of such a provision should be deemed as an error by the company.

### **Ombudsman’s decision**

12. Mr E worked for the UK office of Ernst and Young from 1977 to 1981, he then moved to the Ernst and Young US office where he worked from 1981 to 1994. Mr E would like his pension to take into account all 17 years of his service with Ernst & Young.

13. Mr E does not dispute that he has never paid any contributions into the UK Plan but he considers that he should be entitled to a retirement benefit for his UK service with Ernst & Young. In effect he is asking me to make provision which the Scheme offered by Ernst & Young does not make. I have no power to do that.
14. An entitlement to benefits from the UK Plan necessitates having been a member of the plan and contributions having been made by the employer and Mr E. It is not uncommon for a UK based plan to have provision to include overseas employees. However the decision, or not, to include such a provision is one for the employer and the trustees and not one for me to interfere with. In any event, even had the UK Plan held such a provision it would not have assisted Mr E as he was not eligible to join the UK Plan before he moved to work in the US.
15. It is not unusual for an international organisation to have separate plans for individual countries because both countries will need to comply with different laws relating to pensions. Even if the UK and US Plans included an option to transfer benefits between them, in this case, as Mr E had not built up any pension benefits in the UK Plan, this would not have been an option for him.
16. Albeit Mr E disagrees, this office can only look at the UK element of his complaint because we are bound by UK legislation and so only have jurisdiction over pension schemes administered in the UK. I do not consider there is evidence of any maladministration in relation to the UK Plan.
17. Therefore, I do not uphold Mr E's complaint.

**Karen Johnston**

Deputy Pensions Ombudsman  
30 March 2017