

Ombudsman's Determination

Applicant	Mrs Y
Scheme	Santander (UK) Group Pension Scheme
Respondents	Santander UK Group Santander UK plc

Outcome

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

Complaint summary

3. Mrs Y's complaint against the Respondents concerns the changes made by the Trustees to the method of revaluing deferred pensions and the calculation of her early retirement benefits.

Background information, including submissions from the parties

4. On 9 March 2010, the administrators of the scheme wrote to Mrs Y and enclosed two pension option statements for retirement in 2010 and 2014. The letter said the options shown were based on information currently held and may change:-
 - Retirement date of 31 March 2010. Option one would give an annual pension of £2,017.69. Option two would give a tax free cash sum of £8,441.48 plus a reduced annual pension of £1,602.19. The Guaranteed Minimum Pension (GMP) required to be in payment would be £2,111.20.
 - Retirement date of 29 August 2014. Option one would give an annual pension of £2,772.40. Option two would give a tax free cash sum of £13,680.10 plus a reduced annual pension of £2,052.02. At age 60, the GMP required to be in payment would be £2,111.20.

5. The above statements were accompanied by guidance notes. A section titled "Important Note" is contained within the guidance and says:

"In preparing this statement care has been taken to reflect the most accurate and up to date information available at the time of preparation. The final benefits will always be subject to the Trust Deed and Rules of the pension arrangement, any discretion exercisable by the Trustees, all prevailing legislation, up to date earnings information and, where relevant, any restrictions necessary to comply with HMRC requirements (such as the amount of tax free cash sum)."

6. In February 2014, the administrators wrote to Mrs Y and enclosed two pension option statements for retirement on 29 August 2014 and 29 August 2016. The letter said the quotes were illustrative, based on actuarial factors and in no way guaranteed:-
- Retirement date of 29 August 2014. Option one would give an annual pension of £2,009.91. Option two would give a cash lump sum of £2,695.77 plus a reduced annual pension of £1,871.10. At age 60, the GMP required to be in payment would be £2,111.20.
 - Retirement date of 29 August 2016. Option one would give an annual pension of £2,321.90. Option two would give a cash lump sum of £6,336.23 plus a reduced annual pension of £1,985.05. At age 60, the GMP required to be in payment would be £2,111.20.
7. On 5 March 2014, the administrators wrote to Mrs Y. They said that the Trustee had requested that the method of calculation should be altered so that it more closely reflected what was specified by the Scheme Rules.
8. On 24 March 2014, Mrs Y wrote to the Respondents and said she was unhappy with the changes in the pension statements and the change in the method of calculation. She said she had relied on the figures supplied in 2010. Had she taken her pension then, she would have received the higher amounts. She said it was reasonable for her to rely on the figures available to her and that the letter did not warn her that the calculations were not in line with the Trust Deed and Rules. It was now too late for her to make alternative plans to save before age 55 to make up the shortfall. She asked the Respondents to consider her request to honour their quotations provided in 2010.
9. The Respondents sent their stage one decision to Mrs Y on 29 May 2014, and informed her that the Trustee of the Scheme had become aware in 2012 that the method of revaluing deferred pensions had not been applied in accordance with the Scheme Rules. The Trustee took immediate action to rectify this as the Trustee is required by law to pay benefits in accordance with the Scheme Rules. They said the pension benefits quoted on 20 February 2014 had been calculated correctly. The benefits quoted in 2010 did not reflect Mrs Y's correct entitlement under the Rules. In

addition, the tax free cash entitlement had to be reduced as the value of Mrs Y's pension was not sufficient to meet the GMP at age 60.

10. The Respondents apologised for the incorrect information but did not consider that Mrs Y had suffered a financial loss. They confirmed that the notes accompanying the two quotations from March 2010 clearly stated that the final benefits would always be subject to the Trust Deeds and Rules of the pension arrangement, prevailing legislation and HMRC restrictions. They offered Mrs Y £250 compensation for the distress and inconvenience experienced.
11. Mrs Y asked for her complaint to be reviewed under stage two and also asked for her pension to be put into payment. On 4 September 2014, the administrators confirmed that she would receive a cash lump sum of £5,910.89 within 10 days of her retirement date which was 6 September 2014. Mrs Y's pension would be £1,839.84 per annum.
12. On 15 October 2014, the Respondents sent their stage two decision to Mrs Y with a further explanation. They reiterated that the Trustee had become aware, in March 2012, that the method of revaluing deferred pensions was not being carried out in accordance with provisions relating to GMP, in the rules of the Pension Fund and legislation. The issue related to the date at which revaluation increases applied at GMP payment age, which is age 60 for a woman. However, prior to March 2012, revaluation increases were applied at the date the pension started which in Mrs Y's case was before her GMP payment age of 60.
13. The Trustee therefore decided to bring the practice in line with the Rules and legislation. The Trustee considered the position of members who would have received statements which assumed that GMP revaluation increases would be applied at the date the pension started. The Trustee determined that early payment quotations would be honoured for members who had already accepted a quotation but not for any other members.
14. The Trustee confirmed it had reviewed its 2012 decision in September 2014 and decided the original decision should not change, in particular because the Trustee was advised that the previous practice was common some years ago but now the new practice was more usual. In addition, the Amalgamated Section of the Scheme had a substantial deficit. The Trustee and the company were working to improve the funding position in the interests of all members. The Trustee considered that it was not in the interests of all members to pay out benefits greater than the Rules or the law required.
15. The Trustee wanted to resolve the dispute and offered Mrs Y £500 compensation for any distress and inconvenience caused to her as a result of the error.

The Pensions Ombudsman's position on incorrect information

16. The provision of incorrect information does not, by itself, entitle a scheme member to the incorrect amount. The person making the complaint must be able to provide evidence that they relied on the incorrect information when making financial decisions or commitments.

Adjudicator's Opinion

17. Mrs Y's complaint was considered by one of our Adjudicators who concluded that no further action was required by Santander UK Group, Santander UK plc. The Adjudicator's findings are summarised briefly below:-
- The Adjudicator explained that the starting point in a case where an error has been made is that the mistake does not create an entitlement to the incorrect amount. Mrs Y says that she relied on the 2010 statements to be correct and that this has caused her a financial loss. Mrs Y says that had she been provided with the correct figures, she would have had time to make alternative savings provision. However, Mrs Y has provided no evidence to show that she relied on the incorrect figures to her detriment or that she has suffered any irreversible financial loss.
 - The Respondents accept that in 2010, Mrs Y received statements which were inaccurate based on an incorrect calculation methodology which was not in line with the Scheme Rules. The Respondents have apologised and have made an offer of £500 compensation for any distress and inconvenience caused to Mrs Y as a result of the error. They have explained that the method used to calculate the pension was incorrect in 2010 and that it wasn't until 2012, that the Trustee became aware that the method was not in accordance with the Rules.
 - The Trustee reviewed the matter again in 2014 and decided that payment quotations would be honoured for those that had already accepted a quotation and not for any other members. The Trustee also explained that the Scheme had a deficit and it was not in the interests of all members to pay benefits greater than the Rules required. In the circumstances, the Trustee has a duty to try to improve the funding position.
 - Mrs Y clearly had an expectation based on the 2010 statements and would have experienced disappointment when she later found that the statements had been calculated incorrectly. For the distress and disappointment, the Adjudicator considered £500 compensation was reasonable in the circumstances.
 - The Adjudicator had also considered that the notes accompanying the statements specified that the options might change and that the final benefits payable would always be subject to the Trust Deed and Rules. Therefore, although an error took place which amounts to maladministration, the Respondents provided a clear warning that the options could change.

18. Mrs Y did not accept the Adjudicator's Opinion and the complaint was passed to me to consider. Mr Y, as Mrs Y's representative, has provided further comments which do not change the outcome. I agree with the Adjudicator's Opinion, and I will therefore only respond to the key points made by Mr Y for completeness.

Ombudsman's decision

19. Mr Y says that the starting point for this matter is not that an error was made but that there was a clear change in the methodology for the calculation of the deferred pension. The early retirement options received in March 2010 reflected the practice and precedent established over many years. Mr Y says Mrs Y was not provided with 'incorrect information' as it was correct at the time.
20. Although I note what Mr Y says, the Trustees are able to make changes to a Scheme including a change in methodology. I would expect a clear explanation about why the changes were being made and how this would affect a member. I am satisfied that the Respondents have explained how the methodology has changed. As it is in line with the Scheme Rules, the change does not amount to maladministration.
21. Mr Y says that although the "subject to the Trust Deed and Rules" ticks a legal box, this does not mean that individuals should reasonably accept a change to what appears to be an established practice and which results in a 56% reduction in their tax free cash lump sum out of the blue at the point of retirement without expectation of some redress. Mr Y says the £500 compensation does not come anywhere near to compensating for the distress and the time taken to get to this point.
22. I accept that Mrs Y would have felt disappointment due to the change in methodology which ultimately resulted in a reduced pension. However, as the methodology is in accordance with the Scheme Rules, it does not amount to maladministration. I note that the Respondents have offered £500 compensation for the previously raised expectation of a higher pension. The amount of £500 is usually awarded by this office for significant distress and inconvenience and therefore I am satisfied that this is reasonable in the circumstances. Mrs Y should contact the Respondents if she wishes to accept their offer.
23. Therefore, I do not uphold Mrs Y's complaint.

Anthony Arter

Pensions Ombudsman
18 July 2017