

Ombudsman's Determination

Applicant	Mrs N
Scheme	Lloyds Banking Group Pension Scheme (the Scheme)
Respondents	Wills Towers Watson (the Administrator)

Outcome

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

Complaint summary

3. Mrs N has complained that she made pension contributions into the Scheme but the Administrator has no record of her.
4. The Administrator has said that even had Mrs N paid contributions into the Scheme, as she had less than five years pensionable service she would have received a refund of contributions, in keeping with the Social Security Act 1973; Mrs N refutes this claim.

Background information, including submissions from the parties

5. In 2017, Mrs N contacted the Administrator about taking her pension benefits at age 60 but the Administrator said it had no record of her.
6. In December 2017, Mrs N contacted the Administrator again and explained that:-
 - She worked for Lloyds Bank from 1 September 1979 to 31 July 1981 as a Graduate Trainee Manager.
 - Her annual salary was around £4,500.
 - She made pension contributions into the Scheme.

7. Mrs N did not receive a response so wrote to the Administrator again on 9 June 2018, and requested that the matter be investigated under the Scheme's Internal Dispute Resolution Procedure (**IDRP**).
8. On 14 August 2018, the Administrator said it had no record of Mrs N and that:
 - it had checked Lloyds Banking Group and HBOS records but there was no record of her under, either of her names, or her national insurance number;
 - it was unlikely that she was enrolled in the Scheme because she was under 25;
 - it was unlikely that she was eligible to join the Scheme as a trainee;
 - if she was a member of the Scheme, her pension contributions would have been refunded when she left service, because she would not have been able to defer her benefits as she had less than five years' pensionable service and was under 25; and
 - the Administrator had checked with Her Majesty's Revenue and Customs (**HMRC**) and had been told that there was no Guaranteed Minimum Pension liability to the Scheme in respect of Mrs N.
9. Mrs N wrote to the Administrator to find out whether the letter it sent on 14 August 2018, was the final response, but the Administrator did not reply.
10. The Administrator later said that Mrs N was an active member of the Scheme "prior to 1988" but maintained it held no pension benefits for her. However, it has now confirmed that the statement that Mrs N was an active member is incorrect as it has no evidence of the membership due to the length of time that has passed since 1981.

Adjudicator's Opinion

11. Mrs N's complaint was considered by one of our Adjudicators who concluded that no further action was required by the Administrator. The Adjudicator's findings are summarised below:-
 - The Adjudicator accepted that although Mrs N's initial enquiries and IDRPs complaint were poorly handled by the Administrator which will have caused her some inconvenience, it was difficult to determine what happened when Mrs N left the company approximately 38 years ago, but it was more likely than not that she received a refund of her contributions in keeping with the legislation at the time.
12. Mrs N did not accept the Adjudicator's Opinion and the complaint was passed to me to consider. Mrs N provided her further comments which do not change the outcome. I agree with the Adjudicator's Opinion and I will therefore only respond to the points made by Mrs N for completeness.

Ombudsman's decision

13. In the absence of the full facts and supporting evidence, my decision must be made based on the balance of probabilities and what is more likely than not to have happened at the time.
14. In May 2017, Mrs N contacted the Administrator with the intention of taking the pension benefits that she believed she was due. However, her previous employer and the Administrator have no record of her.
15. It has been more than 38 years since Mrs N left employment at Lloyds Bank, so it is not surprising that it does not have records from this time. It is not a legal requirement to keep records of employment for more than six years after an employee has left the employment.
16. Mrs N believes that she is entitled to a pension because she did not receive a refund of the contributions made into the Scheme and the accumulated pension contributions were not transferred to her new employer's scheme at the time.
17. Mrs N says that there is "no foundation" for the Administrator's comments concerning the refund she would have received when she left the Scheme. She has also said that, during her exit interview in 1981, there was no discussion about her contributions being refunded or being transferred to the scheme with her new employer.
18. The Scheme Rules, when Mrs N left Lloyds Bank in 1981, only allowed for a pension to be provided if the employee had more than five years pensionable service. Mrs N left with less than two years pensionable service, so the only benefit due was a refund of her Scheme contributions. The Scheme had no obligation to transfer Mrs N's contributions to her new employer's scheme because this did not become a requirement for a ceding scheme until the Social Security Act 1985, came into effect. Under this Act, members were able to transfer the value of their accrued pension to another scheme.
19. Given the time that has passed since Mrs N left Lloyds Bank, the only way to be certain whether the refund was issued would be for one, or both, of the parties to provide the necessary evidence. Neither party is able to provide evidence to support its argument so my decision is based on what was most likely to have happened. I believe it is more likely than not that Mrs N was provided with a refund of her contributions.
20. I do not uphold Mrs N's complaint.

Anthony Arter

Pensions Ombudsman
4 March 2020