

## Ombudsman's Determination

Applicant	Mrs L
Scheme	Ulster Bank Pension Scheme ( <b>the Scheme</b> )
Respondent	Ulster Bank

## Outcome

1. I do not uphold Mrs L's complaint and no further action is required by Ulster Bank.

## Complaint summary

2. Mrs L has complained about the circumstances around her retirement. She has raised the following complaints:-
  - She was pressured to retire.
  - There was a lack of communication during the retirement process.
  - Her request to retire was processed quicker than usual.
  - She does not believe her retirement is valid as Ulster Bank did not have her retirement request in writing.
  - She claims that her retirement was expedited so that Ulster Bank would not have to offer her voluntary redundancy.

## Background information, including submissions from the parties

3. Mrs L was an employee of Ulster Bank and a member of the Scheme, which is a defined benefit occupational pension scheme.
4. In 2015, Mrs L was on sick leave for a period of time. During which, she considered her employment options, including retirement.
5. Mrs L returned to work in 2016.
6. On 29 January 2016, it appears as though Ulster Bank sent Mrs L an email (**the January 2016 email**) about retirement which said, "If you give your notice you can use the leave so have 10 days to work [sic], or you can work the 20 days and get paid

the extra money for the 10 days [...] Let me know what you think? Anything you need let me know. I am not pushing you to do this, just want to make sure you know what you need to do" (see Appendix for the email's full contents).

7. On 25 February 2016, Mrs L retired.
8. Following this, Mrs L's retirement pack was issued. Ulster Bank has said that this was issued on 10 March 2016, but Mrs L has stated that it was dated 14 April 2016.
9. On 15 April 2016, Ulster Bank announced that a voluntary redundancy package was going to be offered to its employees.
10. On 21 July 2016, Mrs L wrote to Ulster Bank to complain about "the handling of [her] retirement, which resulted in [her] missing out on the opportunity to apply for a...[voluntary redundancy] payment." She stated that when she returned to work in January 2016, her manager had applied for retirement on her behalf. Mrs L said she "felt uneasy about this but [she] went ahead with it as [she] didn't want to cause a fuss." In hindsight, Mrs L believed that Ulster Bank should have made reasonable adjustments to explain and confirm her understanding of her retirement application.
11. On 15 August 2016, Mrs L completed and returned the retirement options pack. Her application was processed on 17 August 2016, and her pension payments were backdated to 25 February 2016.
12. On 21 September 2016, Ulster Bank representatives met with Mrs L to discuss her 'post-employment complaint'. The main issues are listed below:-
  - Mrs L confirmed that her "issue" was with the retirement process rather than an individual person.
  - One of the problems was that it took until 14 April 2016 for her retirement options pack to be sent, after she made a telephone call in February 2016. A redundancy package was subsequently announced on 15 April 2016.
  - Mrs L stated that she was ill and so could not have made a retirement decision at the time. This was especially considering in 2015, the figures she received in an illustration (**the 2015 figures**) were lower than she had expected. When Ulster Bank questioned how she had obtained the 2015 figures, she said had contacted her HR department.
  - Mrs L explained that on the day that the retirement discussion took place, she was feeling unwell and so could not have contacted HR to get an updated pension illustration. Later that day, she was told that her retirement had been submitted and that the forms had been processed. Although this had not been Mrs L's intention at the time, she started to consider that maybe it was for the best.
  - To date, Mrs L had never signed anything to say she was retiring.

- Ulster Bank questioned whether Mrs L had considered not resigning at any time between the retirement application being processed and her leaving employment on 25 February 2016. Mrs L said she had not.
  - Mrs L concluded that she had wished she “had done the normal process” so that she would have received her pension illustration first and would then have been aware of the redundancy package.
13. On 12 October 2016, Ulster Bank issued its response, following the receipt of additional comments from Mrs L that day. It did not uphold Mrs L’s complaints and provided the following reasons:-
- The mention of retirement while Mrs L was on sick leave was as a result of a previous discussion about retirement and was made as a duty of care to Mrs L. It was not intended to apply pressure on Mrs L to retire.
  - Based on a discussion with Mrs L’s manager at the time, Mrs L had mentioned retiring when she returned to work in January 2016. After speaking with Mrs L, her manager organised for Mrs L’s retirement to be processed. This was confirmed to Mrs L and her manager was not told that Mrs L had changed her mind. Further, a retirement party was arranged for Mrs L and at no stage did she say she wanted to reconsider her retirement or that it had not been her intention to retire. So, Ulster Bank’s view was that Mrs L was retiring of her own volition, without any undue influence from Ulster Bank’s staff.
  - Prior to the announcement on 15 April 2016, Mrs L’s manager was not aware of the voluntary redundancy offer. So, Mrs L could not have been nor should have been given notice before that time. There was no evidence that Ulster Bank’s staff had acted against any of Ulster Bank’s policies in this regard.
  - It did not think additional steps were required to help Mrs L’s understanding of the retirement process. Mrs L would have resigned with the intention of receiving her pension, which Ulster Bank believed Mrs L would have known.
  - It did not agree that Mrs L was prevented from applying for voluntary redundancy, rather Mrs L had already retired prior to the announcement being made. Mrs L had not indicated that her retirement was dependent on receiving a pension illustration nor had she said she was reconsidering retirement at any time.
  - Mrs L applied to retire in January 2016 and then retired the following month. The announcement of the voluntary redundancy was not made until April 2016, so Ulster Bank did not accept that Mrs L was denied the opportunity to apply for voluntary redundancy due to its error or that it related to her disability.
14. Dissatisfied with Ulster Bank’s responses, Mrs L brought her complaint to The Pensions Ombudsman (**TPO**). She believed there were problems with Ulster Bank’s retirement process and that it had not obtained her informed consent regarding this. Further, Mrs L claimed that had she received a retirement illustration before her

retirement, she would have been able to apply for the redundancy package. As a result, Mrs L wanted Ulster Bank to admit that errors had been made and she wished to be “financially compensated”.

15. During TPO’s investigation, Mrs L and the Royal Bank of Scotland (**RBS**) (on behalf of Ulster Bank) have provided some additional information, which is listed below:-
- A letter dated 21 December 2018 from a medical practice. This stated how Mrs L’s symptoms made her “[feel] this causes problems with concentration and decision making.”
  - RBS stated that the voluntary redundancy was granted to employees on a discretionary basis. So, there was no guarantee that an employee’s application would be accepted.

### **Adjudicator’s Opinion**

16. Mrs L’s complaint was considered by one of our Adjudicators who concluded that no further action was required by Ulster Bank. The Adjudicator’s findings are summarised below:-
- There was no evidence that Mrs L’s ill health affected her decision making, the Adjudicator’s view was that Mrs L could have questioned her retirement application at the time.
  - Mrs L completed her pension application six months after her retirement from Ulster Bank, which supported Ulster Bank’s comments that Mrs L did not ask for the process to be reversed.
  - The January 2016 email suggested that the retirement application was made with Mrs L’s knowledge.
  - If Mrs L had wanted a benefits illustration, she would have had to contact the administrators of the Scheme, not Ulster Bank.
  - As the voluntary redundancy would have been subject to Ulster Bank’s discretion, the Adjudicator could not conclude that Ulster Bank processed Mrs L’s retirement application to prevent her from applying for voluntary redundancy. In any case, as this appeared to be a complaint about the employer’s actions and intentions regarding Mrs L’s employment contract, it was the Adjudicator’s view that it did not fall into TPO’s remit as it was an employment matter.
17. Mrs L did not accept the Adjudicator’s findings and the complaint was passed to me to consider. Mrs L provided further comments which do not change the outcome. I agree with the Adjudicator’s findings and I will therefore only respond to the key points made by Mrs L for completeness. Mrs L’s comments are summarised below:-

- Her retirement should not have taken place until she had received a pension illustration. The Pension Regulator's guidance supports this as it states, "if you have a DC pension scheme, the trustee (or scheme manager) or pension provider must make members aware of their retirement options at least four months before their expected retirement date. This includes telling members about Pension Wise, the government's free and impartial service that will help them understand their choices."
- Had the correct processes taken place, she would have still been employed at the time the voluntary redundancy announcement was made. This is because she would have waited to receive her pension illustration, which she received after 14 April 2016. So, she would have applied for voluntary redundancy rather than retire.
- She had been "unfairly disadvantaged due to poor process outside of her control." She believed she would have definitely met the criteria for redundancy due to her specific role.
- Her ability to question the retirement process, both at the time and now, was and still is affected by her health.
- She did not recall the January 2016 email, so it may be that her health issues prevented her from understanding its contents. In any case, there was no mention of retirement, and Mrs L questioned whether it was appropriate to have dealt with the subject of retirement in this manner when Ulster Bank was aware of her ill health.

## **Ombudsman's decision**

18. In relation to Mrs L's complaint about the reasons Ulster Bank may have had for processing her retirement, I consider this to be outside of my legislative powers. If Ulster Bank was processing Mrs L's retirement for any reason other than a request to retire, the motive cannot be categorised as pensions administration. Instead, this would be considered as an employment matter. Similarly, Mrs L's concerns about being pressured into retirement involve the employer's actions and the consequences it may have had on her employment. I do not consider this to be a pensions administration matter.
19. Mrs L has also argued that there was a delay in the provision of her retirement options pack, and that she should have received a pensions illustration before her retirement. I note that Mrs L has quoted the Pensions Regulator in support of her position, but it is not applicable here. Mrs L is not a member of a defined contribution pension scheme, but a defined benefit pension scheme. Further, as Ulster Bank is Mrs L's employer, it is not the entity that is responsible for the provision of the retirement options pack nor the pension illustrations. Consequently, if I were to agree with these aspects of Mrs L's complaint, any applicable redress would need to be directed to a party that is not named as a respondent to the complaint. As this is not something I am able to do, I shall not comment further on these matters.

20. Mrs L's complaint concerns the retirement process with her employer. She believes that there was a lack of communication, that her application was processed quicker than usual, and that her retirement was invalid as Ulster Bank did not have her written notice.
21. I understand Mrs L's concern about her retirement request and how she believes there were certain steps that should have prevented this from taking place. The January 2016 email suggests that Mrs L was, or at least ought to have been, aware of Ulster Bank's process. I note that Mrs L does not recollect seeing this email, but if her health was impacting her to that extent, it would be reasonable to have expected her to go through the information with an independent party.
22. In order for Mrs L's retirement request to be accepted, Ulster Bank required her to give notice, as explained in the January 2016 email. Given that Mrs L's retirement was subsequently processed, and Mrs L retired, it is clear that appropriate notice was given. Otherwise, the events that Mrs L is now complaining about would not have occurred.
23. Mrs L has stated that she did not question her retirement at the time, as her ability to do so was impacted by her health. I am not persuaded that the retirement went against Mrs L's wishes, or that she was unable to question what had happened due to her health:-
  - In her complaint to Ulster Bank dated 21 July 2016, she acknowledged that she was uneasy about the retirement, but that she did not want to cause a fuss.
  - On 21 September 2016, she had stated that she had considered retirement as 'for the best'. During the same meeting, she confirmed that after learning about her retirement request, she had not considered reversing the decision to retire before she left employment.
24. As Mrs L was feeling uneasy about the retirement but ultimately found it for the best, this demonstrates that she had in fact questioned the retirement. Had she been against the retirement or thought that the correct processes were not being adhered to, I can see no reason why she would have gone ahead with it.
25. Further, I acknowledge that there is a letter from a medical practice about Mrs L's health, which confirms how she feels the symptoms affect her. However, she has not provided anything that confirms that she would have been unable to question her retirement as a direct result of her health. Based on her actions, I find that retirement was more likely than not to have been Mrs L's intention at the time, and so Ulster Bank has not made an error.
26. With regard to Mrs L's comments about her retirement request being processed quicker than normal, I have seen nothing to suggest that this was the case. As explained in paragraph 22 above, I find it likely that Mrs L confirmed she wished to retire, and Ulster Bank recorded this. The January 2016 email explained how much longer Mrs L needed to work, and she did so until 25 February 2016. So, I cannot see

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that her retirement request was expedited in any way, and if she did not wish to proceed with it, she could have informed Ulster Bank in the following weeks.

27. I do not uphold Mrs L's complaint.

**Anthony Arter**

Pensions Ombudsman  
2 October 2019

## **Appendix**

### **Ulster Bank's email to Mrs L on 29 January 2016**

"If you are giving me your notice I need it in writing.

4 weeks' notice, so 20 days.

You have 8 days left from last year plus 2 days for this year so that totals 10 days.

If you give your notice you can use the leave so have 10 days to work, or you can work the 20 days and get paid the extra money for the 10 days.

I am sending this to you because you can't hear me properly and I want to make sure you understand it.

If you give your notice I key it on computer [sic] and HR send you a letter telling you when you get your lump sum and when your pension will start and how much it would be each month.

Let me know what you think? Anything you need let me know. I am not pushing you to do this just want to make sure you know what you need to do."