

## Ombudsman's Determination

Applicant	Mr I
Scheme	Whitbread Group Pension Fund ( <b>the Fund</b> )
Respondents	Whitbread Pension Trustees ( <b>the Trustees</b> ) Mercer Limited ( <b>Mercer</b> )

## Outcome

1. I do not uphold Mr I's complaint and no further action is required by either the Trustees or Mercer.
2. My reasons for reaching this decision are explained in more detail below.

## Complaint summary

3. Mr I complains that the Trustees and Mercer, the administrator of the Fund, are wrongly refusing to pay him a pension from the Fund.

## Background information, including submissions from the parties

4. Mr I was a member of the United Biscuits Pension Plan for the period from 1 June 1985 until 5 April 1990, and accrued a deferred pension in it of £564.88 pa at the date of leaving.
5. According to the historical records held by Diageo Pensions, the administrators of the Diageo Pension Scheme, Mr I joined the Grand Metropolitan Group Pension Fund (which did not have compulsory membership) on 1 August 1990, and not 6 April 1990 as Mr I believes. Diageo Pensions says that Mr I's contributions into the Grand Metropolitan Group Pension Fund are consistent with a start date of 1 August 1990.
6. Mr I chose not to transfer his deferred pension rights in the United Biscuits Pension Plan into the Grand Metropolitan Group Pension Fund and subsequently applied successfully for early payment of it on the grounds of ill health. He has been receiving this pension since 1 December 2004, from the United Biscuits Pension Plan.
7. Mr I's benefits in the Grand Metropolitan Group Pension Fund were bulk transferred to the Bright Reasons Group Pension Scheme on 1 July 1991.

## **PO-7950**

8. His contributions into the Grand Metropolitan Scheme during the periods 1 August 1990 to 31 March 1991, and 1 April 1991 to 30 June 1991, were £115.19 and £56.08 respectively.
9. A bulk transfer of pension rights from the Bright Reasons Group Pension Scheme to the Fund took place in 2000. Berry, Birch and Noble, the administrators of the Bright Reasons Group Pension Scheme, provided the Trustees with a list of members who had benefits in the transferring scheme. Mr I was not on this list.
10. In June 2014, HMRC informed Mercer on form CA1899 that Diageo Pensions had notified them that Mr I's GMP liability accrued during the period 6 April 1991 to 5 April 2002 had been put into the Bright Reasons Group Pension Scheme.
11. Shortly prior to attaining his State Pension Age (**SPA**), in July 2014, Mr I received form CA1627 from H M Revenue and Customs (**HMRC**) showing that he was entitled to a Guaranteed Minimum Pension (**GMP**) of £0.29 per week (£15.08 pa) in the Bright Reasons Group Pension Scheme, at SPA, accrued during the 1991/92 tax year (i.e. 6 April 1991 to 5 April 1992).
12. Mr I complained to the Trustees that he should receive a pension of £564.88 pa from the Fund and not just a GMP of £15.08 pa from SPA as advised by HMRC.
13. The Trustees did not uphold Mr I's complaint because:
  - a) Mr I was not on the list of members with benefits in the Bright Reasons Group Pension Scheme to be transferred into the Fund; and
  - b) since the Bright Reasons Group Pension Scheme no longer existed, they decided to exercise their discretion to pay him a gross lump sum of £215.62 representing the cash equivalent value of his GMP (in order to extinguish his GMP liability); and
  - c) the figure of £564.88 relates to his deferred pension in the United Biscuits Pension Plan which was accrued during a different period of service.
14. The Trustees chose not to dispute HMRC's record for Mr I's GMP entitlement in the Bright Reasons Group Pension Scheme because its value was small and they considered a pragmatic approach to resolve his dispute quickly would be to pay Mr I a sum equivalent to the GMP value under their discretionary powers.

## **Adjudicator's Opinion**

15. Mr I's complaint was considered by one of our Adjudicators who concluded that no further action was required by the Trustees and Mercer. The Adjudicator's findings are summarised briefly below:

- a) if Mr I was entitled to a deferred pension, his name should have been on the list of members in the Bright Reasons Group Pension Scheme, with benefits to be bulk transferred into the Fund that Berry Birch and Noble sent the Trustees;
  - b) furthermore, he should have received a statement from Berry Birch and Noble showing what his estimated deferred pension entitlement in the Bright Reasons Group Pension Scheme would be on attaining NRA shortly after leaving this scheme;
  - c) Mr I had most probably received a net refund of his pension scheme contributions paid into the Bright Reasons Group Pension Scheme when he left it (including those which were transferred into it from the Grand Metropolitan Group Pension Fund); and
  - d) Berry Birch and Noble had unfortunately failed to reinstate him back into the State Earnings Related Pension Scheme (**SERPS**) for the period he was contracted out whilst a member of the Bright Reasons Group Pension Scheme by paying a "Contribution Equivalent Premium" (**CEP**) to HMRC.
16. Mr I did not accept the Adjudicator's Opinion and the complaint was passed to me to consider. Mr I 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 I for completeness.

### **Ombudsman's decision**

17. Mr I contends that if he had received a net refund of his pension contributions into the Bright Reasons Group Pension Scheme, the list which Berry Birch and Noble provided to the Trustees should have shown that he had received such a refund.
18. The list was prepared by Berry Birch and Noble for the purpose of notifying the Trustees which members of the Bright Reasons Group Pension Scheme still had benefits in it to be transferred into the Fund. The Trustees clearly did not need to know about former members of the Bright Reasons Group Pension Scheme, who no longer had any pension rights, for the purposes of carrying out the bulk transfer exercise. I do not consider it was necessary for the list to have shown whether or not Mr I had received a net refund of contributions.
19. Mr I is adamant that he did not receive a net refund of his contributions when he left the Bright Reasons Group Pension Scheme but I concur with the Adjudicator's Opinion that the available evidence does not support his view that he is entitled to a deferred pension in the Fund.
20. Therefore, I do not uphold Mr I's complaint.

**Anthony Arter**  
Pensions Ombudsman  
8 July 2016