

Ombudsman's Determination

Applicant	Mrs Y
Scheme	NHS Pension Scheme (the Scheme)
Respondent	NHS Business Services Authority (NHS BSA)

Outcome

1. I do not uphold Mrs Y's complaint and no further action is required by NHS BSA.

Complaint summary

2. Mrs Y has complained that:-
 - She was incorrectly told that she could not contribute to another Section of the Scheme while she was receiving her pension from the 1995 Section of the Scheme.
 - She received a curt response from NHS BSA to an email she sent it.

Background information, including submissions from the parties

3. The sequence of events is not in dispute, so I have only set out the main points. I acknowledge there were other exchanges of information between all the parties.
4. Mrs Y was a member of the 1995 Section of the Scheme from 25 March 1994 until 23 September 2001, apart from about a year between 31 March 1995 and 3 March 1996.
5. From September 2001, Mrs Y took a break from her employment of over five years. Upon her return to work with the NHS, she was automatically enrolled into the 2008 Section of the Scheme, as it was after 1 April 2008, and she was under the age of 60. The relevant Regulations for the Scheme, provide that Mrs Y can claim her 1995 Section pension while continuing to work and also contribute to the 2008 Section of the Scheme.
6. In March 2017, Mrs Y was incorrectly told by NHS BSA that she could not contribute to another section of the Scheme while she was in receipt of her 1995 Section pension. Mrs Y complained to NHS BSA and said that as a result of what she had

been told it was impossible for her to plan for her retirement. In addition, she continued to receive statements with an incorrect retirement age.

7. On 21 July 2020, NHS BSA wrote to Mrs Y under Stage One of the Scheme's Internal Dispute Resolution Procedure (**IDRP**). It confirmed that members with a separate entitlement in the 1995 Section can claim the 1995 Section benefits and continue to pay into the 2008 Section of the Scheme. It said a fault in its computer system kept changing the status of Mrs Y's membership to show it as all in the 1995 Section of the Scheme. NHS BSA said this caused incorrect calculations to be prepared by its automated systems to populate Mrs Y's online statement. It said until it had a permanent fix to remedy the fault, a manual statement would need to be produced.
8. Mrs Y was not happy with the response from NHS BSA and asked for her complaint to be considered under Stage Two of the IDRP.
9. On 21 October 2020, NHS BSA wrote to Mrs Y under Stage Two of the IDRP. It said it understood Mrs Y was provided with an accurate 2008 Section pension benefit statement on 1 November 2019. It also understood Mrs Y had been told that she would need to pay for any additional statements requested within 12 months. It said this was because under the Pensions Act, it was only obliged to provide one statement free of charge within 12 months. NHS BSA acknowledged Mrs Y had been provided with incorrect information in 2017 and offered her £100 in recognition of the stress caused.
10. NHS BSA's position:-
 - Mrs Y is a member of both the 1995 and 2008 Sections of the Scheme. Mrs Y can claim her 1995 Section pension while continuing to work and contribute to the 2008 Section of the Scheme. This is the only circumstance where a member can be a pensioner of the 1995 Section and a contributing member of another NHS pension scheme. NHS BSA's computer system did not recognise this.
 - Due to the computer system error, Mrs Y was recognised as only being a member of the 1995 Section of the Scheme when she re-joined after her break of employment. It was not until she received her first annual benefit statement (**ABS**) that the system error was identified. The ABS, which was computer generated, was incorrect. When Mrs Y spoke to the NHS BSA helpline, the information she was given was incorrect as they repeated what they saw on the computer system.
 - The Total Reward Statement (**TRS**) is not a live system and only releases statements usually once a year in August. Members are not able to view updates until the August refresh is released.

Adjudicator's Opinion

11. Mrs Y's complaint was considered by one of our Adjudicators who concluded that no further action was required by NHS BSA. The Adjudicator's findings are summarised below:-

- Although there was maladministration, as Mrs Y was given incorrect information about whether she was able to receive her pension from the 1995 Section of the Scheme and also contribute to another Section of the Scheme, she had not suffered a financial loss.
 - NHS BSA has said it will provide Mrs Y with a manual statement once a year free of charge, which is all it is obliged to do.
 - The responses Mrs Y received to her emails from NHS BSA were business like and not curt.
 - The amount offered by NHS BSA was appropriate when taking into account the particular circumstances of the complaint.
12. Mrs Y did not accept the Adjudicator's Opinion and the complaint was passed to me to consider. Mrs Y provided her further comments which do not change the outcome. In summary, she said:-
- She used to be able to see both entitlements in full on the TRS for both the 1995 and 2008 Sections of the Scheme up until the point she took her 1995 pension in 2017. The manual statement provided after that was not as detailed as the TRS and did not give the projections for lump sums on the 2008 Section benefits. The manual statement became a 15 month plus statement because of the time it took to produce it.
 - She does not consider the email from NHS BSA as business like, rather she considers it curt, blunt and wrong.
 - She feels the Adjudicator could not possibly say how much distress, anxiety and inconvenience she has been personally caused.
13. I note the additional points raised by Mrs Y but I agree with the Adjudicator's Opinion.

Ombudsman's decision

14. NHS BSA's computer system did not recognise that Mrs Y can claim her 1995 Section pension while continuing to work and contribute to the 2008 Section of the Scheme. NHS BSA has acknowledged this and also accepts that as a result Mrs Y was given incorrect information by the NHS BSA helpline about contributing to the 2008 Section of the Scheme.
15. NHS BSA is responsible for ensuring that Mrs Y receives an accurate ABS, which it has agreed it will provide through a manual calculation to allow for Mrs Y's unique circumstances. I find that this is a reasonable measure to overcome the issue. NHS BSA is not obligated to provide more frequent statements beyond this. In relation to the level of detail on the statements, the purpose of both the TRS and the ABS is to provide details of what benefits are due to be paid, and so once the 1995 Section benefits came into payment there was no longer any requirement or necessity to continue to include these benefits.

16. I acknowledge there were unfortunate mistakes in the information Mrs Y was given by email about her eligibility to contribute to the 2008 Section of the Scheme. However, I note that Mrs Y was automatically entered into the 2008 Section on her return to work and contributions were correctly made, so these errors have not caused her any financial loss. The errors were simply with the poor communication from NHS BSA.
17. I acknowledge Mrs Y has suffered inconvenience as a result of the poor communication and that the receipt of incorrect information would have caused her some anxiety when she was nearing retirement. I also accept that some written correspondence can appear blunt to the recipient, although often with no intention on the part of the sender. However, I do not consider Mrs Y has suffered significant distress and inconvenience. I find the offer by NHS BSA of £100 in recognition of the distress and inconvenience caused to be reasonable in the circumstances. Mrs Y should contact NHS BSA if she wishes to accept it.
18. I do not uphold Mrs Y's complaint.

Anthony Arter
Pensions Ombudsman

22 June 2022