

Ombudsman's Determination

Applicant	Mr E
Scheme	Teachers' Pension Scheme (the TPS)
Respondents	Teachers' Pensions (TP)

Complaint Summary

Mr E has complained that, before he retired, he was misinformed by the TPS Administrator, TP, as to the length of his pensionable service and accrued pension benefits in the TPS. As a result, he left teaching for a consultancy position earlier than he otherwise would have done. Consequently, he argues he is in receipt of lower pension benefits than anticipated and has also earned less than he would have if he had not made decisions in reliance of the misinformation provided by TP.

Summary of the Ombudsman's Determination and reasons

1. The complaint is upheld against TP because it provided Mr E with incorrect information which he relied on to his financial detriment. To put matters right, TP shall follow the steps set out in the section, 'Directions'.

Detailed Determination

Material facts

2. On 1 September 1986, Mr E joined the TPS.
3. On 1 January 1990, Mr E opted out of the TPS.
4. On 20 May 1992, Mr E asked TP to transfer his service (1 September 1986 to 31 December 1989, so three years 122 days) to a personal pension plan administered by Legal and General (**L&G**).
5. On 1 January 1995, Mr E rejoined the TPS.
6. In December 1999, Mr E's pensionable service from 1 September 1986 to 31 December 1994 (eight years 121 days) was reinstated in the Scheme following a pension mis-selling review by L&G. L&G paid the reinstatement costs to the Scheme on 2 December 1999. Mr E had surplus funds in his L&G pension plan following the

reinstatement and purchased 333 days additional service under the TPS' Past Added Years arrangement.

7. From April 2005 to May 2012, TP issued Estimates of Benefit (**EOB**) statements to Mr E periodically. These showed his accrued benefits to 31 March of the previous scheme year.
8. Hard copies of EOB statements were issued to Mr E, via his employer, on 28 April 2005, 29 November 2005, 12 March 2007, 17 April 2008, 18 March 2009, 27 May 2010, 27 May 2011 and 1 May 2012.
9. In the 1 May 2012 EOB statement, Mr E's pensionable service was shown as 25 years and 179 days (up to 31 March 2011). It showed an annual pension of £15,886.73 and a Pension Commencement Lump Sum (**PCLS**) of £47,660.19.
10. On 9 February 2014, a hard copy EOB statement was issued to Mr E, via his employer. The statement showed Mr E's pensionable service as 32 years and 178 days (up to 31 March 2013). It showed an annual pension of £21,514.18 and a PCLS of £64,542.58.
11. On 13 March 2014, Mr E telephoned TP to query the extra five years' service which he had noticed on his recent EOB statement (**the Telephone Call**). He said he had been credited with eight years transferred-in service, but this seemed too high. He said his pensionable service appeared on the statement as longer than he had been teaching. He was reassured by two call handlers (**CHs**) that the figures were correct. He was told the extra service related to the period of service which he transferred out and transferred back in, and compensation for the mis-sale of the transfer period. Transcripts of the relevant parts of the Telephone Call are provided in the Appendix 1.
12. A hard copy EOB statement was issued to Mr E via his employer on 17 March 2014. The statement showed Mr E's pensionable service as 32 years and 178 days (up to 31 March 2013).
13. Hard copy EOB statements were issued to Mr E via his employer on 1 August 2014, 27 September 2014, 27 January 2015, 27 February 2015 and 22 April 2015. Each statement showed Mr E's pensionable service as 33 years and 178 days (up to 31 March 2014).
14. In July 2015, Mr E left his mainstream senior teaching role. His EOB statements confirmed that his last day of pensionable service was 31 August 2015. He moved into part-time consultancy work.
15. From 5 November 2018 to 21 March 2020, Mr E periodically accessed his EOB statements online 10 times using the TP member's service 'My Pension Online' (**MPO**). Each of these statements showed Mr E's pensionable service as 34 years and 312 days (up to 31 August 2015).

16. On 22 March 2020, Mr E accessed his EOB statement online using MPO. The statement showed Mr E's pensionable service as 34 years and 312 days (up to 31 August 2015). It showed an annual pension of £26,195.79 and a PCLS of £78,813.32.
17. On 23 March 2020, Mr E applied for an actuarially reduced early retirement pension.
18. On 30 March 2020, Mr E accessed his EOB statement online using MPO. The statement showed Mr E's pensionable service as 29 years and 313 days (up to 31 August 2015). It showed an annual pension of £22,440.00 and a PCLS of £68,464.44.
19. On 4 May 2020, Mr E started to receive his pension.
20. In July 2020, Mr E complained to TP. He said he had noticed the extra service on his EOB statements and queried this with TP in the Telephone Call. He had received reassurances that the figures were correct and that he had benefited from a fortunate by-product of opting out and back into the Scheme. Based on these reassurances and subsequent EOB statements he made retirement plans and mortgage commitments. He was made aware of the errors in the calculation of his pension benefits in late March 2020 and this caused a major gap in his financial planning. He said he would be approximately £3,000 per year worse off and his lump sum would be around £8,500 less than anticipated. He said he would have to work longer to support his outgoings and the error had had a negative effect on his mental health.
21. On 9 September 2020, TP responded to Mr E's complaint. As relevant, TP said:

" ...

[the Scheme] is a statutory scheme and TP can only pay benefits in respect of a person's entitlement under the Teachers' Pensions Regulations (**TPRs**). Therefore, TP cannot include the service which was credited to you in error.

The benefit statements that are produced for every member of the TPS are automatically calculated using the basic calculation of the information held on the individual's record. It would be impossible for every record to be checked every year for any possible discrepancies. Therefore, reliance is placed on the employer to correctly record and submit service and salary information on an annual basis and for the member to check it is correct and to contact the relevant employer if they believe there is an error, as well [as] address any other discrepancies there may be with the relevant party. It is for this reason that the benefit statement clearly states that the figures given are for illustration only and the statement confers no rights to the benefits quoted.

On retirement the member's record is scrutinised to ensure that the correct calculation of their actual retirement benefits is paid. Any possible discrepancies are addressed. As you are aware, during this process it was

identified that some service had been credited to you in error. This was the same error you raised with TP's Contact Centre.

In your complaint you refer to a telephone conversation where you rang TP as you had identified that your service total had increased without explanation. I have listened to this call which took place on 13 March 2014. Two things are apparent. Firstly, that you made the call because you doubted the increase to your service total, and secondly, the CHs you spoke to (there were two as the first transferred the call), did not identify that the increase was due to an error with your service record. You were told that the change to your service total, (despite your misgivings), was due to a mis-sold pension being reinstated. However, closer scrutiny would have identified that you were not credited with the service between 1 January 1990 to 31 December 1994 (the period of service that was included in error) in statements prior to the one received in 2014 i.e. after the duplication of service occurred. This is because this period is accounted for within the transferred in service which is added to your reckonable service total. It was improbable that after 14 years you were entitled to further service due to this process. There was opportunity to question this, or to request that written evidence of why the mis-sold benefits had now changed was provided, but unfortunately this was not the case.

The CHs clearly misunderstood the situation. You were informed when the mis-sold benefits were reinstated in [4 January] 2000 of the amount credited to you. There was no legitimate reason for this to change. TP regrets that the error with your service record occurred and that the CHs did not take further action to address your concerns given that you identified the unexplained increase in your service total. I am afraid, however, that these events do not allow for the statutory TPR to be overridden.

...

22. On 6 October 2020, Mr E complained to the DfE regarding the management of his pension and about TP's response to his complaint.
23. On 28 October 2020, TP responded to Mr E's complaint to the DfE. It said, as relevant:

"...an error in our computer system occurred in 2013 resulting in your previously 'opted out' service (from 1 January 1990 to 31 December 1994) being wrongly coded as pensionable service. This service had already been recorded as 'reinstated service' following action taken by Legal and General to restore benefits into [the Scheme] over the mis-selling of a private pension. The recorded service was effectively duplicated and incorrectly enhanced your total pensionable service.

Our records show that a significant number of benefits statements have been produced between 28 April 2005 and 30 March 2020. Some of these estimates would have included a complete service history broken down line by

line. I note that the annual benefits statement issued on 1 May 2012 gave reckonable service of 25 years 179 days and quoted benefits of £15,886.73 (annual pension) and £47,660.19 (lump sum), whereas the estimate issued less than two years later on 9 February 2014 gave reckonable service of 32 years 178 days and quoted benefits of £21,514.19 (annual pension) and £64,542.58 (lump sum). Such a large increase in the service total and benefits over the course of less than two years could have alerted you to this unfortunate situation and prompted you to query it.

...TP notes this over-inflated service continued to increase incrementally and appeared on all successive estimates each year until the error was uncovered when your file was scrutinised upon receipt of your application for retirement benefits.

TP has a requirement under the [TPRs] to ensure that you receive your correct entitlement and cannot pay more than the benefits which you are due to receive. However, TP recognises your disappointment at being informed that your total pensionable service to be used in the calculation of your retirement benefits was less than you had expected.

I should like to apologise, most sincerely, for this system error. TP would like to offer you the sum of £500 as a gesture of goodwill in the circumstances and to recognise the distress and inconvenience this situation has caused."

24. On 15 November 2020, Mr E wrote to the DfE unhappy with TP's response. He said, as relevant:

"...The letter makes no reference to the [9 September 2020 letter from TP] or to the telephone conversation which took place on 13 March 2014, a recording of which is now in my possession following my request. For [TP] to suggest that the change in benefits in the statement of February 2014 'could have alerted [me] to this unfortunate situation and prompted [me] to query it' is nothing short of offensive given the acknowledgement in their previous response of the telephone query made by me on 13th March 2014 and the wholly inadequate management of that query by TP.

I attach notes of the telephone conversation from March 2014 above, transcribed from a recording made by [TP] at the time, which clearly outlines my concern that I did not wish to make important financial decisions based on incorrect information. You will see that I was reassured on several occasions, even when I pressed them for further reassurance and was passed to a second CH for confirmation. The critical moments in this conversation are when I clearly state that 'I don't want to find out it's not right' and 'it's not something I want to rely on if it's inaccurate'. Both CHs were adamant that the figures were correct and these figures, along with all of the subsequent benefit statements, caused me to leave teaching earlier than planned and to make a significant career change based on the assurance that my pension was secure

and sufficient to meet my future living costs in retirement. I cannot reasonably have been expected to pursue this further than I did and therefore it is the sole responsibility of [TP] that I made major life decisions based on the information and assurances they gave me. This is the basis of my complaint and the reason why the only fair resolution would be to honour the figures sent to me by Teachers' Pensions

...”

25. On 11 December 2020, the DfE responded to Mr E under the TPS' Internal Dispute Resolution Procedure (**IDRP**). It acknowledged a computer system error caused Mr E's pension benefits to be falsely inflated and agreed that he was incorrectly reassured that the figures were correct in the Telephone Call. However, it did not uphold Mr E's appeal as it said TP had applied the TPRs correctly.
26. On 13 December 2020, Mr E brought his complaint to The Pensions Ombudsman (**TPO**). He said that by the time the error was realised in March 2020, he could not return to his previous senior teaching position. His skill and experience had changed since 2015 and returning to such a role was not possible. He said that having his meticulous retirement plans altered caused dangerous levels of stress and anxiety, with his blood pressure spiking at life-threatening highs and an emergency referral to hospital for monitoring and treatment.
27. On 4 October 2021, the DfE's formal response to TPO said, as relevant:

“The department understands that Mr E's complaint is about the administration of his pension and considers that such complaints should be responded to by the scheme administrator, [TP].”
28. On 19 October 2021, TP's formal response to TPO, said, as relevant:

“I should point out that the EOB [statements]'s issued to members include a caveat that states: ‘although every effort has been made to ensure accuracy, it is for illustration only and does not give you entitlement to the retirement benefits quoted. At retirement your membership history will be scrutinised to ensure benefits are calculated on the correct service’.”

Summary of Mr E's position

29. In 2013, TP made an error on his account statement which showed extra years of service. When he received an EOB statement with extra years of service on his account in February 2014, he telephoned TP and was reassured that the figures were correct.
30. As a result of such decisive assurances in the Telephone Call, his whole mindset changed in the knowledge that he had accrued nearly 35 years' worth of pension entitlement. He left his mainstream senior teaching role in July 2015 and moved into part-time consultancy work. He felt he could take a lower level of income and financial

security because he had been reassured that once he reached pensionable age his financial future was secure.

31. He also took out a twenty-year mortgage of £360,825 on a property jointly with his wife in July 2015 in the knowledge that his future pension entitlement plus part-time consultancy work would be sufficient to pay the mortgage. To partly fund this house purchase he sold another property which at the time was rented out.
32. If he had been told in March 2014 that the figures were incorrect, he would have stayed in his senior teaching position until retirement age and would not have taken out or needed to take out a new mortgage.
33. He was only told in March 2020, when he applied to draw his pension, that the figures were incorrect. His annual pension benefits were c£3,000 lower than he had expected based on the EOB statements and the Telephone Call, and the PCLS was c£8,500 lower.
34. Having his meticulous retirement plans altered had caused dangerous levels of stress and anxiety, with his blood pressure spiking at life-threatening highs and an emergency referral to hospital for monitoring and treatment.
35. He feels he should be paid his pension benefits in line with the EOB statements he was receiving until he applied for his pension in March 2020.
36. By the time the error was realised in March 2020, he could not return to his previous senior teaching position. His skill and experience had changed since 2015 and returning to such a role was not possible.

Summary of TP's position

37. In 2013, an error in the TP computer system occurred which led to double-counting a period of Mr E's opted-out service from the 1990s (which had been reinstated following the pensions mis-selling review). The EOB statements issued from February 2014 to November 2018 wrongly showed the double-counted service.
38. All EOB statements include the warning: "although every effort has been made to ensure accuracy, it is for illustration only and does not give you entitlement to the retirement benefits quoted. At retirement your membership history will be scrutinised to ensure benefits are calculated on the correct service".
39. The TP CHs on the Telephone Call did not correctly identify the error on his EOB statements and informed Mr E that the increased service total was due to a mis-sold pension being reinstated.
40. However, he was also informed when the mis-sold benefits were reinstated on 4 January 2000 of the amount of pensionable service credited to him and there was no legitimate reason why this should change 14 years later. There was an opportunity for Mr E to question this, or to request written evidence of why the service total had changed, but he did not.

41. The TPS is a statutory scheme and can only pay benefits in respect of a person's entitlement under the Regulations. The service credited to Mr E in error cannot therefore be included in his pension benefits.
42. TP offered Mr E £500 as compensation for the non-financial injustice he had suffered.
43. On 16 January 2025, I sent my Preliminary Decision (**the Decision**) on this complaint to the parties. In response to the Decision, TP submitted:-
 - 43.1. There would have been other factors, aside from the Telephone Call, which prompted Mr E to leave his senior teaching position. It suggested these may have included dissatisfaction with his role, work-related stress, other health issues, the desire for a new challenge, or financial security from other means such as joint household income or inheritance.
 - 43.2. It questioned why Mr E reduced his working hours by 20 per cent on 1 June 2015 rather than remaining on full pay for the summer term. It also queried the reason for a seven per cent increase in his salary at that time.
 - 43.3. It disagreed with Mr E's assertion that as of March 2020 he was unable to secure a full time permanent role equivalent to the senior teaching position he had left five years earlier. It said Mr E's skills and experience, coupled with a shortage of and residual demand for postgraduate teachers, would have made him a viable candidate for such positions.
 - 43.4. It asked for clarification as to whether Mr E's share of the mortgage was equally split with his wife. If Mr E's income contributed a larger proportion of the mortgage payments than his wife, it suggested that his share of the capital gain on the property should be adjusted accordingly in the loss calculation.
44. In response to the Decision, Mr E submitted that he agreed with the decision and had the following comments in respect of the calculation of any potential loss;
 - 44.1. Prior to the Telephone Call, he had intended to stay in his teaching role until retirement. However, the Telephone Call prompted him to consider early retirement around August 2022.
 - 44.2. If the capital gain on his principal residence is to be taken into account in the calculation, the capital gain and rental income which he forewent in relation to his buy-to-let property should also be considered.
45. In response to further questions from the Adjudicator relating to TP's comments in response to the Decision, Mr E submitted, as relevant:

"As I have evidenced fully in previous statements, it is difficult to overstate the impact of the misinformation on the EOB statements and subsequent telephone call with Teachers' Pensions on my thinking regarding my career. Prior to this, it was my intention to continue with my teaching career, with the aim of taking early retirement probably in August 2022, just after my 58th birthday.

It is perhaps worth noting that the considerable benefits of the teachers' pension scheme were a very significant part of the salary package in the minds of colleagues of my generation. To be given information which led me to believe I had the freedom to pursue other goals and ambitions, with the benefits of the pension package assured, was indeed a life-changing moment, which can clearly be heard in my tone during the call.

It is straightforward to track the timeline of the decision process starting with the TPS call in March 2014, to a period of reflection in the summer and autumn and active applications to educational consultancy companies during the latter part of 2014, resulting in securing a contract in February 2015, which gave me the confidence to hand in my notice to my employer at that point.

For TPS to engage by their own admission in hypothetical speculation in order to avoid the facts of their own actions during the telephone call and multiple EOB statements, merely adds to the distress and disruption to my right to plan for my retirement in a fully informed position. As regards inheritance, my mother died in 1981 my father died in 2002; I was not expecting to inherit anything following my career change, and I haven't.

The move to an 80% post was a part of the career change process described above. The consultancy firm were very keen to get started and especially for me to be familiar with their clients and processes well in advance of the August deadline for university placements. The School agreed to release me one day per week for this purpose once my examination classes had ended after the May half term. This was a temporary solution to an immediate practical problem and would not have been the case had I remained in teaching thereafter.

The School requested my time for the handover of my key roles as Head of Sixth Form and Boarding and offered the higher level salary in lieu of taking the usual school holiday break over the summer. Both employers needed my attention during the same period in August, and this was the compromise position.

[TP's point regarding Mr E gaining a similar permanent teaching role in March 2020] demonstrates a lack of understanding of the huge changes which have taken place in the reality of the teaching profession over the intervening years. Ofsted and other frameworks changed completely during this time and the move to large chain academies created a demand for younger, cheaper teachers. Senior roles are mainly recruited from within the academy chains as part of their internal career development structures. To imagine that an older, more expensive teacher can walk back into a senior role after five years away is an illusion. The suggestion that I should have started scrambling about for bits of supply work in order to rectify the issue that TPS caused through their maladministration is not worthy of a response.

As I have stated previously, I do not believe that personal property should be a part of this calculation. The point about my income compared to my wife's seems based on a purely sexist assumption. My wife, as a senior teacher in her own right, was

earning more than me during this period, and contributing at least as much to the mortgage. It is perfectly feasible to go back through bank statements and establish that in fact she paid significantly more over the years, given that my income was more uneven. But surely, as joint owners, any increase in value would need to be accounted for equally, as in the preliminary decision.

..."

Conclusions

46. TP has acknowledged that it provided Mr E with incorrect information in the Telephone Call and in all EOB statements between 2013 and 23 March 2020, so there is no dispute that errors have occurred.
47. TP acknowledge that five years 'opted out' service was wrongly coded as pensionable service, which led to the erroneously inflated figures provided to Mr E numerous times. It was not until 30 March 2020, after Mr E had already left his mainstream teaching role and later applied for his pension, that he was provided with the corrected figures.
48. There is no dispute that there has been maladministration on the part of TP by providing the inaccurate information about his benefits. However, TP is correct that it is only able to pay the benefits payable under the TPS. TP cannot provide an ultra vires benefit which it does not have power to provide. This does not mean, however, that Mr E could not have a claim against TP in negligent misstatement¹ and, if he can demonstrate that he has sustained loss, may be entitled to monetary compensation.
49. To succeed in a claim for negligent misstatement broadly it is necessary to show that the manager/administrator:
 - 49.1. owed the person to whom the negligent misstatement was allegedly made a duty of care as to the accuracy of the information provided (generally trustees of trust-based schemes and managers of public sector schemes owe such a duty of care to beneficiaries);
 - 49.2. there was a breach of the duty of care (i.e. the information provided was not correct and could not be made by someone exercising reasonable care);
 - 49.3. the person to whom the information was provided reasonably relied on the representation and thereby suffered loss (the "but for" test is satisfied); and
 - 49.4. that the loss suffered was not too remote (i.e. was of the kind falling within the scope of the duty of care).²

¹ Under the Crown Proceedings Act 1947 a claim in negligence can be brought against a public authority.

² See *Hagen v ICI Chemicals* [2001] 64 PBLR for a useful discussion of how the principles apply in negligent misstatement cases from [77] to [140]

50. In terms of the issue of reliance on an inaccurate statement the Courts have said that the judge (or for that matter the Ombudsman) has to ask three questions:

50.1. Did the appellants rely on the statements?

50.2. Was the reliance reasonable?

Would the appellants have acted differently if they had been told the correct position?³

51. It is well established that managers/administrators of statutory public service schemes may owe scheme members a duty of care in relation to the accuracy of any information provided to the member about their benefits and also may owe a duty of care to exercise reasonable skill and care in relation to the performance of their functions under scheme. Managers/administrators of public service schemes owe an obligation in law to pay the correct benefits and administer the scheme in accordance with the regulations governing the scheme.

52. While the manager/administrator is not in a fiduciary relationship, there is a sufficiently proximate or special relationship between the manager and the member of the scheme for a duty of care to arise in negligence. The regulations of such schemes are complicated and difficult for members to understand. The members are reliant on the managers/administrators to administer the scheme correctly. Cases in which such a duty of care has been recognised as capable of arising by the Courts include:-

52.1. *Westminster CC v Haywood* [1996] 2 All ER. This is one of the earliest cases where the issue was considered in relation to an Ombudsman complaint or dispute. In this case an *ultra vires* benefit promise was made by a public authority. The court held that the Ombudsman could not direct the payment of an *ultra vires* benefit. In relation to any claim advanced for financial loss compensation for negligent misstatement would be to put the complainant in the position they would have been in if the information had been correct. On the facts, there was no financial loss so the Ombudsman could not direct an award for financial loss as a consequence of maladministration.

52.2. *NHS Pensions Agency v Pensions Ombudsman* [1999] 59 PBLR (1). In this case the member asked for estimates of pension entitlements prior to retirement from the NHS. He was given an estimate on the basis of 40 years' service, although his service was actually 140 days short of that. The Pensions Ombudsman found there had been maladministration and directed that a full pension should be paid. The NHS Pension Scheme appealed to the High Court. It was held by Carnwarth J at paragraph 4 of his judgment that, on the authority of *Westminster CC v Haywood*, in a case where the Ombudsman is awarding some sum by way of compensation for mistaken advice of this kind, the measure of damages should be approached on a tortious basis, that is on the basis of the position the applicant would have been in if the advice had not been given, rather than on the

³ *Corsham v Police Commissioners for Essex* [2019] 074 PBLR (042); [p2019] EWHC 1776 (Ch), Morgan J at paragraph 173

basis of what it would have been if the advice had turned to be correct. On the facts, no loss could be demonstrated. However, the case recognises that compensation might be payable on the basis of negligent misstatement in appropriate circumstances.

- 52.3. *East Sussex County Council v Jacobs* [2004] OPLR 247 at [16]–[17]. In this case an inaccurate retirement quote was given. The Court held that the Ombudsman had no power to direct the payment of enhanced benefits (as such benefits would be *ultra vires*). However, in relation to a claim for negligent misstatement the measure of loss would be to put the complainant in the position she would have been in if the information were correct. Blackburne J indicated that if the case had not settled, he would have quashed the original decision and remitted the matter back to the Ombudsman to consider the loss of salary and pension suffered by the complainant through her early retirement in reliance on the negligent misstatement of her benefits and to consider the sum if any which should be paid for distress and inconvenience. In other words, it was accepted that a duty of care in negligence could arise notwithstanding that the promised benefits were outside the powers of the authority to grant, but the Ombudsman could not direct that they should be paid.
 - 52.4. *NHS Pensions Agency v Beechinor* — [1997] OPLR 99. In this case NHS Pensions Agency provided inaccurate information that the member could join the Scheme when there was no power to enable the member to do so. Lightman J found that the Ombudsman has been wrong to make a finding of maladministration in that NHS Pensions Agency had no active duty to advise or warn under general private law negligence principles; and if (contrary to Lightman J's view) NHS Pensions Agency otherwise might have had such a duty imposed on them, such duty was expressly disclaimed by the letter dated 22 May 1978. In relation to the argument that such a duty of care had been assumed by writing the letter Lightman J recognised that NHS Pensions Agency, by writing that letter, assumed the responsibility to take reasonable care that the information therein contained was correct (in other words it is possible to assume a duty of care). However, on the facts, the information was correct and in no way misleading so there was no breach of the duty of care.
 - 52.5. *Andrew v Royal Devon and Exeter NHS Foundation Trust* [2022] EWHC 2992. In this case, the member retired on the basis of an inaccurate ill-health retirement quote given by the Trust (as his employer) which overstated the benefits payable under the NHS Pension Scheme. Mr Justice Zacaroli remitted the matter back to the Ombudsman to reconsider whether the applicant had sustained any loss in reliance on normal negligence principles. In other words, it was accepted that such a duty of care could arise, however, the Ombudsman needed to look at whether the loss flowed from the negligent misstatement.
53. Managers and administrators of statutory public service schemes often seek to escape liability for inaccurate statements by including disclaimers of liability in benefit quotations that the member should not rely on the statements and that the benefits will be paid in accordance with the rules. However, this is not always a “*get out of jail*

free card". It is still a question of fact whether it was reasonable for the member to rely on the inaccurate statement in the circumstances of the case, having regard to things said and done by TP (for example, the other actions taken by TP). These all form part of the factual matrix relevant to the issue of whether it was reasonable to rely on the inaccurate statement. A disclaimer by itself is not always conclusive.

54. Most of the case-law on the impact of disclaimers of responsibility relate to professional services firms and to the question of whether the professional services firm assumed responsibility for the statement. In *Hedley Byrne & Co Ltd v Heller & Partners Ltd* [1964] AC 465, a disclaimer was held to be effective at negating an assumption of a duty of care which would otherwise have been owed by a professional services firm.
55. It was noted by Hobhouse LJ in the later case of *McCullagh v Lane Fox & Partners* [1996] 1 EGLR 35 that Lord Devlin had said in *Hedley Byrne* that a disclaimer may be effective at negating an assumption of liability on the basis that:

"A man cannot be said voluntarily to be undertaking a responsibility if at the very moment when he is said to be accepting it he declares that in fact he is not. The problem of reconciling words of exemption with the existence of a duty arises only when a party is claiming exemption from a responsibility which he has already undertaken or which he is contracting to undertake."

56. Hobhouse LJ went on to observe in *McCullagh* that

"The relevance of the disclaimer is to negative one of the essential elements for the existence of the duty of care. It negatives the assumption of responsibility for the statement. It implicitly tells the recipient of the representation that if he chooses to rely upon it he must realise that the maker is not accepting responsibility for the accuracy of the representation."

57. Hobhouse LJ then also went on to note that:

"The disclaimer is part of the factual situation which the court has to take into account in deciding whether or not the defendants owed a duty of care to the plaintiff. Put another way, the question is whether the plaintiff was entitled to treat the representation as one for which the defendants were accepting responsibility. This is primarily a factual question."⁴

58. Also, in determining the correct approach to a disclaimer Hobhouse LJ said that:

"The right approach, as is made clear in the *Hedley Byrne* case, is to treat the existence of the disclaimer as one of the facts relevant to answering the question whether there had been an assumption of responsibility by the defendants for the relevant statement. This question must be answered objectively by reference to

⁴ See also *Knights v Townsend Harrison Ltd* [2021] EWHC 2563 at [246].

what a reasonable person in the position of Mr McCullagh would have understood at the time that he finally relied upon the representation.”

59. In *Royal Bank of Scotland International Ltd v JP SPC4 and another* [2022] UKPC 18 (Privy Counsel) it was noted by Lord Hamblen and Lord Burrows in the judgment at 62 and 63 in relation to whether a duty of care had been personally assumed by a director of a company that:

“63 As Lord Steyn explained in *Williams v Natural Life* at p 835G–H, the objective nature of the test means that it will generally be important to focus on exchanges which cross the line between the defendant and the claimant (or the group of persons of which the claimant is an identifiable member):

“The touchstone of liability is not the state of mind of the defendant. An objective test means that the primary focus must be on things said or done by the defendant or on his behalf in dealings with the plaintiff. Obviously, the impact of what a defendant says or does must be judged in the light of the relevant contextual scene. Subject to this qualification the primary focus must be on exchanges (in which term I include statements and conduct) which cross the line between the defendant and the plaintiff.”

64 An examination of the case law indicates (see Clerk & Lindsell on Torts, 23rd ed, paras 7–113 to 7–137) that the factors which have been of particular relevance in determining whether there is an assumption of responsibility in relation to a task or service undertaken include: (i) the purpose of the task or service and whether it is for the benefit of the claimant; (ii) the defendant's knowledge and whether it is or ought to be known that the claimant will be relying on the defendant's performance of the task or service with reasonable care; and (iii) the reasonableness of the claimant's reliance on the performance of the task or service by the defendant with reasonable care.”

60. The position in the current case is not quite on “all fours” with a *Hedley Byrne* type of case, involving professionals seeking to limit liability, as the caveats are not specifically seeking to prevent a duty of care arising, but more generally flag the fact that the members' entitlements are governed by the regulations governing the scheme and the estimates do not give entitlement to the benefit.

61. TP note that the various statements issued to Mr E included the statement that

“although every effort has been made to ensure accuracy, it is for illustration only and does not give you entitlement to the retirement benefits quoted. At retirement your membership history will be scrutinised to ensure benefits are calculated on the correct service.”

62. On the authority of *McCulloch* I need to treat the existence of the disclaimer as one of the facts relevant to answering the question whether there had been an assumption of responsibility by TP for the relevant statement that Mr E was entitled to an extra

five years' reckonable service. I need to consider what a reasonable person in the position of Mr E would have understood having received the statements of entitlement and then queried whether it was correct, and whether in the circumstances it was then reasonable for him to have relied on it when making his decision to give up his job and become a deferred member in the TPS.

63. TP has effectively argued that the disclaimer is sufficient to negate any duty of care which might otherwise be owed by TP to Mr E in relation to the accuracy of the information in the statements (in particular, the period of reckonable service) and/or that it was not reasonable to rely on the statement in the circumstances of the case because of the disclaimer. TP also argues that Mr E should have questioned the increase in his projected pension entitlement and requested evidence of why the service total had changed. In other words, TP argues that it was not reasonable to rely on those statements. However, Mr E did exactly this in the Telephone Call soon after receipt of the first inflated EOB statement, which he received in February 2014. He was reassured that the figures were correct and was given a plausible explanation for the sudden increase in his pension benefits.
64. The clear, verbal reassurances given to Mr E in the Telephone Call that his initial EOB statement was correct, have led me to agree with Mr E that, in the circumstances, it was reasonable for him to have relied on the information that was provided to him in relation to his entitlement to the extra period of reckonable service (notwithstanding the existence of the disclaimer in the EOB). In relation to this conclusion, I would note that Mr E having received the EOB statement with the disclaimer:
- 64.1. specifically queried whether the allocation of the extra five years reckonable service in the statement was correct;
 - 64.2. was given a plausible explanation of why five years additional reckonable service had been credited even though the period was more than the period he had been employed as a teacher; and
 - 64.3. the initial advice was confirmed by the original member of staff's colleague who knew, from Mr E's comments, that Mr E would be relying on the information about the period of his pensionable service in relation to his retirement planning, although at this stage Mr E had not made a final decision to retire.
65. Mr E advised that the reduction of his working hours from five to four days per week from 1 June 2015 was facilitated by the school granting him release for one day a week to undertake his consultancy role. He also said the seven per cent increase in his income was payment in lieu of taking the usual summer school holiday. Both explanations to TP's comments on the Decision appear reasonable and creditable. I have no grounds to question their veracity so I have not requested further confirmation from Mr E's employer. It is not necessary to make any adjustment to the loss calculation to reflect the brief transition to 80% employment.

66. Mr E left his senior teaching position in July/August 2015⁵ and moved into part-time consultancy work. He has said that he did so in reliance upon the information given to him in the Telephone Call and the six subsequent EOB statements he received between 17 March 2014 and 22 April 2015. These EOB statements all contained the incorrectly inflated pension projections. He therefore believed he did not need to continue contributing to the Scheme for his pension benefits to reach his desired level of pension at retirement in 2020. In this case, with the evidence available to me, I have no reason to doubt Mr E's contention that his employment decision was taken in conjunction with the information he was given about his pensionable service, that in turn he was told by TP that he could rely upon in the Telephone Call. It was reasonable for him to rely on these representations and but for the representations he would not have given up his job in July/August 2015.⁶
67. I also consider that while the TP staff who gave Mr E the information would not have been aware of his plans to give up work in 2015 it was reasonably foreseeable that Mr E was likely to rely on the information they gave him about his pension in relation to future retirement planning and might sustain loss as a result if he gave up his job. Mr E concluded during the call that:
- Mr E – “So the benefit has been quite significant. I just wanted to check that because that's really good news, but it's not something I want to rely on if its inaccurate”
- TP CH2 - “No, not at all, that's perfectly right, sir.”
- Mr E - “Brilliant. Thank you”
68. At this point, Mr E's reliance had become explicit. TP had the opportunity to tell Mr E at this point that he should not be relying on the information, or that his pensionable service record would need a final verification check at point of retirement but did not do so. While in the normal course disclaimers of the type included in the EOB statements by TP would generally be sufficient to prevent reliance on such a statement, on the facts of the case, TP by its later actions did assume responsibility for reliance on the statement that Mr E was entitled to the extra five years reckonable service, and in those circumstance it was reasonable for Mr E to rely on the assurances given to him when he checked the position with TP. TP confirmed that Mr E could rely on the statement and at that point assumed liability for the accuracy of the statement, notwithstanding the general disclaimer in the EOB.

Calculating loss

69. In relation to the options available to Mr E to try to mitigate future loss, I have noted his comments on the possibility of seeking new employment to mitigate his loss, but

⁵ The period of pensionable service ended on 31 August 2015. Mr E has explained this in the information supplied in paragraph 46.

⁶ See footnote 5.

he could only do this once he became aware of the overstatement of his benefit entitlement in 2020.

70. When Mr E became aware of his incorrectly recorded pensionable service and benefits in March 2020, it had been nearly five years since he had left his senior teaching role and the TPS. He said he could not return to his previous position at this time because his skills and experience had changed since he had been working on a part-time consultancy basis in the intervening period. This contention is entirely credible and as such Mr E had no reasonable opportunity to mitigate his losses in this way by the time he found out about TP's errors.
71. Nonetheless, from March 2020, as is reflected by Mr E's actual earnings increasing, he added to his part-time work in an attempt to mitigate the lower pension forecast he had received.
72. The next more difficult issue is how to compensate Mr E for the financial loss he has sustained.
73. The measure of loss in any negligent misstatement claim is to pay Mr E a sum of liquidated damages sufficient to put Mr E in the position he would have been in if the negligent misstatement or misstatements had not been made. It is not to pay him a liquidated damages sum sufficient to purchase the incorrectly promised benefits. See *Westminster v Heywood*, *East Sussex CC v Jacobs* and the other cases discussed above.
74. If Mr E had not retired from his existing job in July/August 2015:
he would have continued to receive the salary he was receiving at the point he left work in 2015 increased in accordance with national pay scales; and
 - 74.1. would have continued to accrue additional pension benefits in the TPS and pay employee contributions to the TPS; and
 - 74.2. would have stayed in school accommodation and not bought the house he did in fact buy with the aid of a mortgage in 2015 nor sold the rental property he jointly owned. This house has subsequently increased significantly in value.
75. Mr E in fact:
 - 75.1. left work and worked on a consultancy basis from July/August 2015 onwards;
 - 75.2. did not accrue any further benefits in the TPS from 31 August 2015 onwards; and
 - 75.3. left the school accommodation in the summer of 2015 and bought a house in 2015 which has subsequently increased in value. The purchase of this house was partly funded by the sale of a rental property.

76. Mr E has helpfully provided a comparison of what he estimates his salary would have been if he had remained employed by the school from 2015 until 2023/2024 with his actual earnings. These figures are calculated by reference to the increases in the applicable national salary scales which were granted during the relevant period (see Appendix 2). Mr E has stated that he has calculated the figures based on the standard published leadership scales in operation in each year⁷, making use of a tax calculator and adding the pension contributions payable for each period. Mr E states he has increased each year's amounts to include annual pay awards and a reasonable assumption about progression for performance/promotion. The assumed salary growth is, in my view, reasonable on the evidence provided.
77. In calculating the monetary loss Mr E has sustained, however, I do not consider it is appropriate to assume that Mr E would have remained in employment with the school until 2023/2024. Mr E undoubtedly wanted to pursue a part-time consultancy option and buy a house (he was living in school accommodation and, as is quite common with teachers in long term school accommodation, also had a buy-to-let property) – but wanted to ensure that if he did this he would have sufficient savings and pension to help meet the mortgage payments and for his future financial needs. The incorrectly overestimated pension estimate gave him this security. I am still satisfied that Mr E would have given up his job and gone down the consultancy route (as he had long wished to do) but consider that that decision would have been delayed until his long-term financial position was more secure. The challenge I face is to form a view on how long he would have deferred the decision.
78. Mr E was comfortable broadly in 2015 to give up his existing job and move to part-time consultancy on a deferred pension which, after revaluation, resulted in the payment of an annual pension of £26,195 from age 60, with a correspondingly higher lump sum. However, I accept that he would not have taken this step if his estimated annual pension had only been (after revaluation) £22,440 from age 60, as it in fact turned out to be (a difference of £3,755 per annum which in this context is quite a significant annual amount). Very broadly, to generate this amount of extra pension would have required Mr E to have worked an extra five years (disregarding any final salary linkage to his pre-31 August 2015 accrued benefits) and using the assumed salary figures contained in Appendix 2.
79. The benefits accrued up to 31 August 2015⁸ would also have continued to be linked to final salary, while the deferred benefit he was in fact entitled to as a deferred member would only have received inflation protection increases. In addition, over that five-year period he would also have been receiving a higher salary. In my view, the higher salary, plus the ongoing additional accrual of pension, would have put Mr E in a position where he would have been comfortable to stop accruing benefits in the TPS, pursue the part-time consultancy role and buy a new house after three years. I

⁷ <https://www.nasuwf.org.uk/advice/pay-pensions/pay-scales/pay-scales-england.html>

⁸ Assuming that Mr E was covered for transitional protection when the scheme switched to providing CARE Benefits subject to the impact of the legislative changes made to address the implications of the *McCloud* judgment.

also consider that if Mr E had left employment to take up his consultancy by 31 August 2018, he would then have still taken his pension at age 60.

80. To adequately compensate Mr E, I find that TP should make a lump sum damages payment sufficient to put Mr E in the position he would have been in if he had continued to work in his previous job with the school until 31 August 2018 and continued to own the rental property, before moving to the consultancy role and buying his house, and then taken his TPS pension from 4 May 2020
81. In calculating any loss, I must also take into account the capital gain Mr E has made on the house between the summer of 2015 and 31 August 2018, less the mortgage payments made during that period (and also less costs) and less the assessed profit he would have made on the rental property over the same period. If I do not reduce the loss by reference to the capital gain on the house, less the assessed profit on the rental property until 31 August 2018, I am overcompensating Mr E. For simplicity, from 31 August 2018 onwards I am assuming that the capital gain on any new house he would have purchased at that time and the actual house he purchased in 2015 is the same, so the two would cancel each other out (See Appendix 3).
82. I also need to find an appropriate method of calculating the difference in (i) the capital value of the pension Mr E did in fact become entitled to on 4 May 2020, calculated by reference to his reckonable service to 31 August 2015 and (ii) the pension he would have been entitled to from age 60 if he had remained in reckonable service until 31 August 2018 (i.e. for three years on the assumption that his pensionable service came to an end on 31 August 2018). I appreciate that this is complicated by the *McCloud* remedy. In relation to the *McCloud* remedy period, Mr E should receive the better of the old scheme benefits and the new CARE benefits.
83. The approach I have taken to assess the loss is contained in my Directions below. I have assumed that Mr E was in a senior teaching role at the top of the salary band for senior teachers, and his salary would have grown in accordance with the increase in pay-scales for senior teachers and national pay increases granted to teachers in England and Wales during the period from 31 August 2015 to 31 August 2018 (when I have assumed that Mr E would have given up his job and moved to the part-time consultancy role). I have assumed that Mr E would still have brought his deferred pension into payment in May 2020 and that for *McCloud* purposes he remained in final salary linked employment in TP from April 2015 until 31 August 2018.

Non-financial injustice

84. After the initial errors in 2013, the misinformation continued for seven years. TP missed opportunities to put matters right and make Mr E aware of the correct position, most notably when he drew it to TP's attention in the Telephone Call in 2014. Mr E has understandably said that finding out about his reduced pension in 2020, at the time he had planned for some years to draw it, had a significant impact on his mental and physical health and has caused a significant disruption to his retirement planning resulting in him having to continue to work to enable mortgage

payments on his new house to continue. Consequently, Mr E is entitled to a distress and inconvenience award. In recognition of the serious distress and inconvenience which he has suffered as a direct consequence of the error on the part of TP, the appropriate award for which is £1,000.

85. I uphold Mr E's complaint.

Directions

86. Within 28 days of the date of this Determination (**the Calculation Date**) TP shall calculate the loss sustained by Mr E as at the Calculation Date using the methodology set out below. The loss shall be equal to 'Amount A' less 'Amount B' (if positive), where:-

86.1. 'Amount A' is the sum of:-

86.1.1. The total of the pension (before tax) and lump sum benefits Mr E would have been paid under the TPS from 4 May 2020 to the Calculation Date on the following assumptions (i) he remained in employment with the school in his previous role (but moved up the senior leadership salary scale) from 31 August 2015 until 31 August 2018 and accrued 3 years' additional reckonable service during this period; and (ii) he received the gross salary specified in the Table in Appendix 2 from 31 August 2015 until 31 August 2018 (on the assumption that his deferred pension from the TPS commenced on 4 May 2020). A check shall be carried out to ensure that this figure is not less than required under the *McCloud* remedy and Mr E shall be assumed to have chosen the *McCloud* remedy option which results in the highest total figure for the pension and lump sum paid to him during this period.

Plus

86.1.2. The estimated cost of purchasing an annuity with an insurer to provide a pension, on and from 4 May 2020, for and in respect of Mr E with the same attaching benefits as would have applied under the TPS on the assumptions specified in paragraph 81.1.1. (assuming Mr E is in good health).

Plus

86.1.3. The sum of £149,538⁹, representing the total salary Mr E would have received from 31 August 2015 until 31 August 2018 on the assumptions set out in 87.1.1 above, less the employee contributions

⁹ The figure of £149,539 is arrived at by taking 3 years of estimated salary of £168,588 (£55,000 + £56,511 + £57,077) if Mr E had remained employed for a further 3 years before leaving teaching (see Appendix 2) and setting up his consultancy, less three years of estimated employee pension contributions at 11.3% of £168,588 amounting to £19,049 (£168,588 x 0.113). The assumed salary figures are approximate, as the estimated figures that have been provided by Mr E are for tax years.

he would have paid to the TPS if he had remained in reckonable service in the TPS and had remained employed in his previous job (but moved up the senior leadership salary scale) from 31 August 2015 until 31 August 2018 and received the salary specified in Appendix 2 during this period.

86.2. 'Amount B' is the sum of:-

86.2.1. The total of the pension (before tax) and lump sum payments paid to Mr E by the TPS in the period from 4 May 2020 to the Calculation Date.

Plus

86.2.2. The estimated cost of purchasing an annuity with an insurer to provide a pension on and after the Calculation Date equal to the pension that is actually payable under the TPS to and in respect of Mr E with the same attaching benefits as under the TPS (assuming Mr E is in good health).

Plus

86.2.3. The sum of £126,000¹⁰ representing the total of earnings Mr E received from his consultancy in respect of the period from 31 August 2015 until 31 August 2018.

Plus

86.2.4. £7,805¹¹ representing Mr E's 50% share of the overall capital gain Mr E made on his new house in the period from date of purchase in June 2015 until 31 August 2018 less his share of the assessed loss from selling the rental property.

86.3. No interest should be added to the pension, lump sum and salary payments before the Calculation Date, as the amounts are unlikely to be material.

87. TP shall instruct the Actuary to calculate the loss acting as the expert holding the balance fairly between the parties. The Actuary should be the Government Actuary or, if the Government Actuary is not willing to perform this role, such other Actuary instructed for this purpose by TP. The Actuary's costs shall be met by TP. The Actuary's calculations should be shared with Mr E once they are available for information only.

¹⁰ The figure of £126,000 assumes earnings of £36,000 + £45,000 + £45,000 in the three years after Mr E left employment with the School and started his consultancy. These figures are approximate as the only figures that have been provided by Mr E are for the relevant tax years (see Appendix 2). They will however be broadly correct.

¹¹ £35,391 - £27,586 (see Appendix 3).

88. TP shall pay Mr E an amount equal to 80% of the loss (if any), as calculated by the Actuary using the above methodology, within 28 days of the date the Actuary completes the calculations. The reduction of the payment by 20% is designed, broadly, to put Mr E in the same net tax position he would have been in, if the inaccurate statement had not been made. If HMRC then seeks to levy income tax on the payment made by TP pursuant to this paragraph, TP shall pay Mr E an additional sum or sums designed to put him in the position he would have been in, if such additional tax liability had not arisen. TP shall also pay Mr E an additional sum or sums designed to meet any additional tax liability, if HMRC treat the above payment as an unauthorised member payment for the purposes of the Finance Act 2004.
89. TP shall also pay Mr E £1,000 in recognition of the serious level of distress and inconvenience he has suffered as a result of this matter as a result of the fact he has had to work longer than originally planned to ensure that he had sufficient income to meet his mortgage payments and the disruption this has caused to his retirement planning.

Dominic Harris

Pensions Ombudsman
22 September 2025

Appendix 1

Transcript of the Telephone Call, as relevant:

Mr E - "I've received my statement of benefits and there's one thing I want to ask you about.

...

Mr E - "I opted out in late 1980s"

TP CH 1 - "It says you opted in"

Mr E - "I opted in in 1986, out in 1988ish, then probably in again a couple of years later. The transferred in service seems very high, eight years. And means my total reckonable service is higher than I have been teaching."

TP CH1 - "Is it eight years and 121 days?"

Mr E - "I didn't opt out for that long. I don't mind as it gives me more reckonable service, but it's not right."

TP CH1 - "There is a mis-sale of the transfer on the system from 1990 to 1994, where you should have been opted out."

Mr E - "I did get compensation for that and that's why I bought the past added year. I thought that compensation gave me the past added year extra, which is great, but it looks on this record as if I benefitted from eight years transferred in service, but I wasn't opted out for eight years. That's what's confusing me."

TP CH1 - "Maybe that's what they've credited you from it. I don't know exactly what to do on this as I don't deal with transfers."

TP CH1 puts Mr E on hold to discuss with a team member.

TP CH1 - "I've been explained that whoever you transferred in in the first place, in time it would have gone up, and whatever you were paying there, so when you transferred back here it would have gone up a bit, so it's just..."

Mr E - "So it looks like I've benefitted from that"

TP CH1 - "Yeah, basically"

Mr E - "Well that's bloody good news, thank you!"

TP CH1 - "Well that's it really. I can pop you over to another member who can explain properly to you about it but..."

Mr E - "No, I'm not complaining, but the other slight element which looks wrong is the reckonable service from 1986 to 1990 isn't there. I was working for Somerset County Council from 1986 to 31 August 1991 which is correct on my statement, but it's not

listed..."

TP CH1 "As reckonable?"

Mr E – "Yes"

TP CH1 – "It's because it was transferred, it still counts, you'll still get the information"

Mr E - "Oh because it was transferred out and back in so I benefit from the extra eight years"

TP CH1 - "Yes, yes, that's correct, that would be the reason"

Mr E - "This is very, very good news, but with all good news you kind of doubt it don't you?"

TP CH1 - "I'll pop you over to someone who can look into it more, I don't want to be saying this and then..."

Mr E – "No, and then I find out it's not right."

TP CH1 - "I'll have word with one of my team members and pop them over after."

TP CH 2 – "Hello [Mr E], you're speaking to [name redacted] at TPS. You've been discussing the service history regarding the transfers, is that right?"

Mr E – "I have two questions; 1 – My service history at Somerset CC is listed as starting in 1990 when I started in 1986."

TP CH2 – "Yes, we've got the service recorded from 1 September 1986, but you transferred that part of the pension out originally, so the only reckonable service that's showing there is from 1 January 1990."

Mr E – "That's absolutely fine. And from what your colleague said, I've benefitted from transferring out, because when it was transferred back in it appears that the value of it was much higher than it would have been if I'd stayed in

TP CH2 - "Yes"

Mr E – "...because I've got transferred in service of eight years when I was only out for four years"

TP CH2 - "Exactly, yes"

Mr E – "plus a past additional year as compensation."

TP CH2 - "Yes"

Mr E – "So the benefit has been quite significant. I just wanted to check that because that's really good news, but it's not something I want to rely on if its inaccurate"

TP CH2 - "No, not at all, that's perfectly right, sir."

CAS-63587-P0K4

Mr E - "Brilliant. Thank you"

Appendix 2 – Projected Salary Information provided by Mr E

Projected Income	Gross/Taxable	Tax and NI	Pension	Net	
2015-16	55,000	15,775	6,215	33,010	L15
2016-17	56,511	16,263	6,385	33,863	L16
2017-18	57,077	16,500	6,449	34,128	L16
2018-19	62,262	18,000	7,035	37,227	L19
2019-20	63,975	18,330	7,229	38,416	L19
2020-21	69,989	20,750	7,908	41,331	L22
2021-22	70,745	21,200	7,994	41,551	L22
2022-23	74,283	23,280	8,394	42,609	L22
2023-24	79,112	23,420	8,940	46,752	L22
Total			66,549	348,887	

Actual Income					
2015-16	36,000	8,000	0	28,000	
2016-17	45,000	10,685	450	33,865	
2017-18	45,000	10,685	450	33,865	
2018-19	30,510	4,507	900	25,103	
2019-20	11,612	0	0	11,612	
2020-21	34,115	7,880	1,500	24,735	
2021-22	34,115	7,880	1,500	24,735	
2022-23	34,668	8,140	1,500	25,028	
2023-24	30,949	7,400	1,425	22,124	
Total			7,725	229,067	

Net income differential			58,824	119,820	
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Appendix 3

Mortgage Cost on House Purchased

June 2015 - Bought house for £425,000. (Bath, North East Somerset).

Joint mortgage of £360,825 (i.e. amount borrowed).

- 2 year fixed at 2.59% from May 2015 to June 2017.
- 2 year fixed at 1.34% from June 2017 to June 2019

The outstanding amounts were:-

- £360,825 at May 2015.
- £336,615.89 at June 2017.
- £314,331 at June 2019.

Mortgage taken out in June 2017 was for £351,980. Therefore, it can be assumed that the interest from May 2015 to June 2017 equals:

$$((2 \times 2.59\%) \times (36,0825 + 336,615.89)) / 2 = £18,064$$

From June 2017 to July 2018 the interest would be:

$$((1.083 \times 1.34\%) \times (351,980 + 314,331)) / 2 = 4,834$$

Total cost = 22,898.

Cost to Mr E = 50% x 22,898 = £11,449.

Increased Value of House Purchased Between May 2015 and July 2018

Purchase price £425,000.

Percentage Increase: $121.95 / 98.5 = 23.8\%^{12}$.

$425,000 \times 1.238 = £526,150$ giving £101,150 profit in July 2018 of which 50% profit to Mr E = £50,575.

Cost of House's Notional Sale

1.42% (average estate agent fees) of £526,150 = £7,471.

Cost to Mr E = 50% x £7,471 = £3,735.

So, Mr E's overall profit on house to March 2017 equals:

$$£50,575 - (£11,449 + £3,735) = £35,391.$$

¹² Data taken from UK house price index official data spreadsheet for Bath and North East Somerset.

Increase in House Value on Rental Property Sold Between May 2015 and July 2018

May 2015 value = £170,000 (as sold).

Percentage increase = 23.8%.

$£170,000 \times 1.238 = £210,460$ giving a profit of £40,460 in July 2018 of which 50% to Mr E = £20,230.

Mortgage Cost on Rental Property

Mortgage was £112,500.

Interest rates assumed to be:-

- 2 year fixed at 2.59% from May 2015 to June 2017.
- 2 year fixed at 1.34% from June 2017 to June 2019.

So, interest cost would be $£112,500 \times ((2.59\% \times 2) + (1.34\% \times 1.083)) = £7,460$

50% cost to Mr E = £3,730.

Cost of sale of rental property

1.42% (average estate agent fees) of £210,460 = £2,989.

50% cost to Mr E = £1,494.

Rental income.

Monthly rent = £680.

Total rental income for 3 years and 1 month = $£680 \times 37 = £25,160$.

Mr E's 50% share = £12,580.

So overall 'loss' to Mr E from selling rental property is:

$(£20,230 + £12,580) - (£1,494 + £3,730) = £27,586$.

Salary loss (using Mr E's figures , capped at March 2020, assumed left senior teaching role here:

Projected total net income from 2015/16 – 2019/20 less pensions contributions= £168,588
less £19,049 = £149,539.

Actual total income = £126,000.

Difference between actual and projected income = £23,539.