

## Ombudsman's Determination

Applicant	Dr S
Scheme	NHS Pension Scheme ( <b>the Scheme</b> )
Respondents	Primary Care Support England ( <b>PCSE</b> ) NHS Business Services Authority ( <b>NHS BSA</b> )

## Outcome

1. Dr S' complaint against NHS BSA and PCSE is partially upheld. To put matters right for the part that is upheld, NHS BSA and PCSE shall each pay Dr S £500, the combined total being £1,000, for the serious distress and inconvenience she has experienced.
2. My reasons for reaching this decision are explained in more detail in paragraphs 44 to 51 below.

## Complaint summary

3. Dr S has complained that she had received incorrect information in her Annual Benefit Statements (**ABS**) for several years, leaving her financially disadvantaged.
4. Dr S has said that she requested, but did not receive, an updated ABS from 31 March 2014 onwards and that the issue remained until she was advised to submit her pension application.

## Background information, including submissions from the parties

5. On 12 May 1983, Dr S became a member of the Scheme.
6. On 10 May 2011, Dr S received an ABS showing her benefits as of 31 March 2010. The information showed:-
  - Pension was £6,488.20.
  - Lump sum was £20,316.28.
7. On 18 March 2014, Dr S contacted NHS BSA to request an estimate of her pension benefits. She also authorised the information to be shared with her financial advisor.

8. On 17 April 2014, NHS BSA responded to Dr S' request dated 18 March 2014 and sent her information regarding her estimated benefits in the Scheme as at 30 April 2014. The information showed:-
  - Pay was £39,072.41.
  - Pension was £10,426.50.
  - Lump sum was £31,279.51.
9. On 6 May 2016, NHS BSA sent Dr S an ABS showing her estimated benefits in the Scheme, as of 31 March 2014 (**the 2016 statement**) payable at her NPA (**Normal Pension Age**). The information showed:-
  - Pay was £174,030.75.
  - Reckonable membership was 7 years, 90 days.
  - Pension was £22,054.23.
  - Lump sum was £66,163.00.
10. In February 2017, Dr S telephoned NHS BSA to obtain an updated ABS. She was informed that PCSE had not submitted information relating to her pay beyond 2014.
11. Dr S has said that between February 2017 and 17 September 2019, she had numerous communications with PCSE where she was required to re-submit the same end of year earnings certificates.
12. On 5 June 2018, NHS BSA contacted Dr S regarding the lack of updates to her pension benefits. It said:-
  - PCSE had advised some members to contact NHS BSA directly where historical pension details were missing.
  - Since PCSE was responsible for updating employees pay and records, this advice was incorrect.
  - It was unable to provide an updated ABS after 31 March 2014, until PCSE had updated its records.
13. On 8 March 2019, Dr S contacted NHS BSA because she was unable to access her ABS through the online Total Reward Statement (**TRS**) as she was working under her professional name.
14. On 7 June 2019, Dr S requested an updated ABS.
15. In August 2019, Dr S said that as she had not received an updated ABS, she telephoned NHS BSA and was informed that her request for a benefit quotation had not been passed onto the relevant department. She has said she was advised to submit her retirement application anyway.

16. On 13 September 2019, NHS BSA sent Dr S an ABS showing her estimated benefits in the Scheme, as of 31 March 2018, if she retired at NPA. The information showed:-
  - Pay was £174,030.75.
  - Reckonable membership was 7 years 90 days.
  - Pension was £25,788.10.
  - Lump sum was £77,364.27.
17. On 17 September 2019, NHS BSA received Dr S' retirement benefits application.
18. On 30 September 2019, NHS BSA sent Dr S the retirement benefits quotation that she had requested on 7 June 2019. The information showed:-
  - Her pension was £16,727.92.
  - Her lump sum was £50,183.76.
  - It had reviewed her previous ABS and had noticed a recurring error. Her salaried employment as a GP had been duplicated as both practitioner employment and as part-time officer employment which had produced an incorrect full-time equivalent pay figure of £174,030.75.
  - The separate officer salary had been incorrectly included in the estimates provided on her ABS.
  - It provided her with the option to continue with her retirement, cancel her retirement altogether and remain in pensionable employment, or continue with her retirement but change her lump sum.
19. On 21 October 2019, NHS BSA provided Dr S with an explanation as to how her pension benefits were calculated. It explained that calculating her benefits using Career Average Revalued Earnings (**CARE**) provided the most beneficial returns.
20. On 4 December 2019, NHS BSA confirmed the finalisation of Dr S' retirement benefits. It also provided her with details of her updated benefits. The information showed:-
  - Pension was 16,888.08.
  - Lump sum was £50,664.23.
21. On 21 February 2020, Dr S formally complained to NHS BSA. She said:-
  - For the preceding three years she had been attempting to obtain an updated ABS to view her benefits beyond 31 March 2014.
  - The ABS she had received showed that her pension was £22,125.18 and her lump sum was £66,375.52.

- In February 2017, she had contacted NHS BSA to request an updated ABS.
  - She also contacted PCSE who repeatedly requested the same end of year earnings certificates. By the end of March 2019, her records had still not been updated.
  - The final ABS she received on 13 September 2019 showed a pension of £25,788.10 and a lump sum of £77,362.27.
  - On 30 September 2019 and later on 4 December 2019, NHS BSA explained that some of her membership had been duplicated and provided her with a revised quotation. She was disappointed to see her pension was £16,727.92 and the lump sum payable was £50,888.08.
  - She had suffered a significant financial disadvantage which she equated to being a minimum of £115,216.20 and an additional £26,698.04 on her lump sum.
22. On 28 May 2020, NHS BSA responded to Dr S' complaint under stage one of the Scheme's Internal Dispute Resolution Procedure (**IDRP**). It said:-
- NHS BSA was entirely reliant on PCSE providing it with accurate yearly updates for GP practitioners within the Scheme.
  - It accepted that Dr S had requested an updated ABS on 7 June 2019 but did not receive one until 13 September 2019. It apologised because this was outside of its 40 working day response policy.
  - It received her pension benefits application on 17 September 2019 and on 30 September 2019, wrote to her to explain that it had noticed that PCSE had duplicated her pension records.
  - Dr S was in receipt of the pension benefits that she was entitled to, so could not be paid in excess of this.
23. On 6 July 2020, Dr S requested that her complaint be reconsidered under stage two of the Scheme's IDR. She said:-
- In the correspondence dated 30 September 2019, NHS BSA explained the reason for its error. It had not made any reference to PCSE being responsible. Whereas in the stage one IDR response it attributed blame to PCSE.
  - She understood that her pension itself could not be altered but remained dissatisfied by the significant financial disadvantage she had been left in. She did not feel this element of her complaint had been addressed.
24. On 26 March 2021, NHS BSA responded to Dr S' complaint under stage two of the Scheme's IDR. It said:-
- Employing authorities were responsible for collecting contributions and updating individual member records.

- Several historic and current issues had been identified in relation to administering GP pension records since PCSE had been contracted to provide the service.
- The information provided in each ABS was reliant on the accuracy of the records submitted by the employing authority. It was impossible to review every member's ABS, but it did have general filter checks to return records that were obviously incorrect. However, duplication of membership would not have been picked up by the system.
- Its records showed that Dr S' work as a salaried GP was duplicated between 1 July 2007 and 31 March 2014. It also noted that it received notification that she was a salaried GP but was also informed that she held a part time officer post during the same period. Since this was not an uncommon occurrence this was not questioned by the system.
- The part time officer employment was on her record in July 2014, so the statement would have shown the duplication of pay and contributions for the salaried GP post.
- Normally, pension benefits in respect of practitioner and officer membership were assessed separately, using different methods of calculation. Practitioner benefits used "dynamizing" a process of uprating each year's practitioner earnings and officer benefits were calculated on a final salary basis.
- The reason for the inaccurate pay figure as displayed on Dr S' ABS was because the salaried GP post was recorded a second time, as part time officer employment.
- It accepted that the information on the ABS would have raised Dr S' expectations as to what she may have received. However, a loss of expectation was different from an actual financial loss and there was no evidence to suggest Dr S had been financially disadvantaged.

25. On 6 April 2021, Dr S submitted her formal complaint to PCSE. She said:-

- The ABS she had received on 13 September 2019 led her to believe she would receive at least £25,788.10 as her pension and a lump sum of £77,362.27.
- On 30 September 2019, due to the duplication of some of her membership, she received revised figures. These were a pension of £16,727.92 and a lump sum of £50,183.76.
- She had spent a great deal of time and energy attempting to obtain updated pension figures. NHS BSA only held information up to 31 March 2014.
- She had contacted PCSE numerous times to request that it provide updated pension records. On each occasion that she re-submitted the same end of year earnings certificate, PCSE was presented with an opportunity to correct any error in the information it sent to NHS BSA.

- It was an immense shock to later be informed of the error in her records that led to her receiving a reduced pension and lump sum.

26. On 23 April 2021, PCSE responded to Dr S' complaint. It said:-

- The reason for the increased benefit figures was because NHS BSA duplicated her salaried GP employment. A part time officer role had been created incorrectly which contributed to the higher figure.
- It said that PCSE was responsible for updating the GP role, which was classed as practitioner work, but it did not create the officer post as it only dealt with practitioner work.
- It accepted that it was responsible for updating her pension records late but maintained that the delays did not contribute in any way to a reduction in her benefits.

27. PCSE's position:-

- PCSE maintained its position as stated in its response to Dr S dated 23 April 2021.

28. NHS BSA's position:-

- As a general practitioner, Dr S was responsible for submitting annual certificates of pensionable profits to her employing authority.
- PCSE were contracted and assumed responsibility for updating Dr S' pension records from 1 September 2015.
- NHS BSA was reliant upon the information provided by PCSE when calculating Dr S' ABS.
- In April 2014, Dr S was supplied with an estimate of her benefits. The information showed her pension was £10,426.50 and her lump sum was £31,279.51.
- Dr S next received an ABS on 6 May 2016. The information showed that her pension was £22,054.23 and her lump sum was £66,163.00. Dr S could have reasonably identified that her benefits had doubled in two years.
- The updated quotation and benefits which Dr S was in receipt of were accurate and were assessed correctly in line with Scheme Regulations.
- It was not appropriate to accept responsibility for an employing authority error.

29. Dr S' position:-

- Dr S reaffirmed her position throughout previous correspondence but added that NHS BSA should accept some responsibility for not identifying the error in May 2016.

## Adjudicator's Opinion

30. Dr S' complaint was considered by one of our Adjudicators who concluded that PCSE and NHS BSA should each pay £500 to Dr S for the serious distress and inconvenience caused. The Adjudicator's findings are summarised in paragraphs 31 to 41 below.
31. On 17 April 2014, NHS BSA sent Dr S an estimate of her benefits. The information showed that her pension was £10,426.50 and her lump sum was £31,279.51. On 6 May 2016, Dr S received an ABS which was accurate up to 31 March 2014. The information showed that her pension was £22,054.23 and her lump sum was £66,163.00. Since the 2016 statement quoted pension figures that had more than doubled in only two years, the significant increase should have been a warning sign to Dr S that something might be wrong. Pensions can be complex but the difference in figures should have been obvious to even a cursory review of the previous information. It was unreasonable for Dr S to have relied on the figures in her ABS.
32. Each ABS and estimate advised members to check the accuracy of their pay figure. The 2014 statement displayed Dr S' pay as £174,030.75 whereas the quotation dated 17 April 2014 displayed her pay as £39,072.41. Had Dr S followed the advice provided, she may have noted the significant difference in pay figures used to calculate her benefits.
33. Dr S said that she raised some queries over discrepancies in the figures she had received. Since no evidence regarding these queries had been provided, the Adjudicator was unable to comment on them specifically. Nonetheless, Dr S had clearly acknowledged there were inaccuracies in the information provided. Dr S made the decision to finalise her retirement before receiving updated, accurate figures. It was unsafe and unreasonable for her to commit to taking her retirement benefits, knowing, or at least suspecting that the information she had received was flawed.
34. Dr S said that during a telephone conversation in August 2019, she was advised to forego the updated ABS that she had requested and submit her retirement benefit application immediately if she wished to receive her benefits by her NPA. Dr S had not provided any further evidence to substantiate the issues discussed nor is there a record of this exchange.
35. NHS BSA stated that the information on a member's ABS is entirely reliant on the information provided by the employing authority. The Adjudicator concluded this was correct and NHS BSA should not be held accountable for the initial provision of incorrect information.
36. PCSE, as the employing authority, did not take over operations from Capita until 1 September 2015. The incorrect information on Dr S' ABS existed on or before 31 March 2014. It would be unfair to consider PCSE solely responsible for the initial provision of incorrect information since it had not yet taken over operations. This did not mean that PCSE was not responsible for exacerbating the issue once it occurred,

but neither NHS BSA nor PCSE could be held directly accountable for the initial mistake.

37. The Adjudicator considered the available evidence, specifically the grossly inflated figures quoted and the date from which PCSE assumed responsibility for Dr S' information. Neither NHS BSA or PCSE were responsible for any direct financial loss to Dr S as a result of the incorrect information as it was unreasonable for her to base her retirement on information that was clearly flawed and which she had not properly verified.
38. There were several instances of poor administration by both PCSE and NHS BSA which did amount to maladministration. The Adjudicator felt that it was important to note, even where it is recognised that incorrect information has been provided, this did not always result in a payment for non-financial injustice.
39. PCSE had provided Dr S with a poor level of service. This was because:-
  - It failed to provide NHS BSA with updated information relating to Dr S' pension records between 2014 and 2018. Had PCSE sent the requisite updates, then NHS BSA could have provided Dr S with an updated ABS sooner, allowing her to consider her retirement based on accurate figures.
  - Dr S had to contact and resubmit the same information to PCSE numerous times before she was reassured that her pension records would be updated.
  - The information it submitted to NHS BSA, which was used to calculate Dr S' ABS dated 13 September 2019, still contained duplicated membership records.
40. NHS BSA had provided Dr S with a poor level of service. This was because:-
  - It failed to pass Dr S' request for an updated ABS to the relevant department in a timely manner.
  - Although NHS BSA could only update Dr S' ABS once it received the relevant pension records, NHS BSA's failure to properly process her ABS resulted in Dr S having to decide between postponing her retirement or foregoing her final ABS. The inconvenience caused by this would have been heightened since Dr S was close to her NPA.
  - Dr S' request for an updated ABS was lodged on 7 June 2019. NHS BSA did not provide this until 13 September 2019. The policy for responding to queries is 40 working days. NHS BSA failed to respond within its stipulated timescales.
  - NHS BSA has accepted in its stage 1 IDR response that it was not unreasonable for it to have noticed the irregularity in Dr S' pension records.
41. The administrative failings will have caused Dr S serious distress and inconvenience so a payment of £500 from both NHS BSA and PCSE to Dr S would have been in keeping with the Pension Ombudsman's guidance on non-financial injustice.



42. Dr S did not accept the Adjudicator's Opinion, and, in response, she reiterated her previous position and provided the following further comments. In summary she said:-
- Busy NHS staff should not be expected to take on the additional role of checking the work of the organisation employed to provide primary care support services on behalf of NHS England.
  - The line starting with "pay" does not state that it meant annual equivalent full time pay.
  - She was aware that GP salaries were subject to mathematical manipulation so assumed that the figure of £174,030.75 was related to that.
  - The fact the term "reckonable membership" meant that 7 years 90 days related to her actual years of contributions was not accurate. She had contributed to the Scheme between 1983 and 2019.
  - The increase to her benefits was expected because she had increased her work hours, her pay had increased and for a time, she held two pensionable roles. Dr S provided a new benefit statement dated 10 May 2011 to substantiate this assumption.
43. Dr S' complaint was passed to me to consider. I have considered Dr S' further comments, but they do not change the outcome, I agree with the Adjudicator's Opinion.

### **Ombudsman's decision**

44. Dr S has provided detailed submissions, which I have had the opportunity to review. Not all those submissions are directly relevant to this complaint or within my jurisdiction. This Determination only directly addresses the key issues regarding her complaint, as stated in the complaint summary (paragraphs 3 and 4 above).
45. Dr S had stated that it was unclear that the term "pay" meant annual equivalent full time pay. I have reviewed the ABS submitted by Dr S, each of which contain a glossary section defining the key terms used within the statement. While I would not expect Dr S to understand terms used from memory, pay is clearly defined in the glossary, and I would have expected Dr S to have consulted this if she were unsure of its definition. Failing that I would have expected Dr S to have queried the matter if she felt anything was unclear.
46. Similarly, Dr S said that the term "reckonable membership" did not clearly demonstrate that 7 years 90 days related to her actual membership in the Scheme. The glossary section in each ABS also states that reckonable membership would be "scaled if you worked part time." Had Dr S consulted the glossary when unsure on the definition of key terms, she would have been aware that her actual membership accounted for her part-time roles and differed to calendar membership.

47. I note that Dr S was aware that mathematical manipulations were used to determine GP salaries and assumed the inflated pay figures provided were related to this. I do not consider it reasonable to have made financial decisions based on information that she merely assumed to be correct. Dr S should have sought clarity on any figures she did not understand before making financial decisions. In addition, even if Dr S' assumption was correct, the figures in question are highly inconsistent. The 2014 statement showed her pay figure was £39,072.41 as of 18 March 2014. In the 2016 statement, her pay figure had increased to £174,030.75 but the statement still displayed figures as of 31 March 2014. It should have been clear from the scale of her pay increase, in such a short period of time, that any mathematical manipulation had not been correctly applied.
48. In addition, Dr S said that she understood the increase to her benefits to be accurate because her pay and working hours had increased and, for a time, she had held two pensionable roles. I can accept that given the factors mentioned, an increase to her benefits would be expected. However, as already stated both the 2014 statement and the 2016 estimated Dr S' benefits as of March 2014. The stark difference in the figures should have been reasonably obvious even to a cursory review. I find that to have expected her benefits to have doubled between the two dates an unreasonable expectation.
49. While I do not find that it was reasonable for Dr S to have relied on the incorrect figures, I accept that she has suffered a loss of expectation in that she thought her retirement benefits would be higher than is the case.
50. I have also reviewed the poor level of service provided to Dr S by NHS BSA and PCSE. The period which PCSE did not update its member records in conjunction with NHS BSA's delayed provision of an updated ABS, and failure to meet its own service requirements will have undoubtedly caused Dr S serious distress and inconvenience. I find that a payment of £500 each is appropriate recognition in the circumstances.
51. I uphold this complaint in part.

## **Directions**

52. Within 28 days of the date of this Determination, NHS BSA and PCSE shall each pay Dr S £500, a combined total of £1,000, for the serious distress and inconvenience she has experienced.

**Anthony Arter CBE**

Deputy Pensions Ombudsman  
13 October 2023