

Ombudsman's Determination

Applicant	Mr Y
Scheme	Universities Superannuation Scheme (the Scheme)
Respondent	Universities Superannuation Scheme Ltd (the Trustee)

Outcome

1. I do not uphold Mr Y's complaint, and no further action is required by the Trustee.

Complaint summary

2. Mr Y has complained that he was provided with incorrect information on which he relied, and as a result suffered financial detriment.

Background information, including submissions from the parties

3. Mr Y joined the Scheme in 1996.
4. In 2010, Mr Y divorced his wife, Mrs Y, and a Pension Sharing Order (**PSO**) was granted in her favour for 60% of Mr Y's benefits in the Scheme.
5. The Trustee received the PSO on 18 August 2010.
6. On 7 September 2010, the PSO was implemented.
7. On 27 October 2010, the Trustee wrote to Mr Y and confirmed that the PSO had been implemented (**Confirmation of Implementation**).
8. The Confirmation of Implementation said:

"The effect that this has had on your benefit entitlement is that a pension debit has been created which reduces your benefits by the following amounts as at the valuation date:

 - Gross annual pension £5,050.97
 - Tax-free cash lump sum £15,152.90
 - Deduction from spouse's pension £2,525.49
(in the event of your remarriage)

These amounts will be index linked in line with fluctuations in the retail price index up to retirement. Apart from these deductions your pension benefits will continue to be calculated in the same manner as before. An example of how this will operate in practice can be found in USS factsheet twenty –

“Implications following divorce, nullity of marriage or dissolution of a civil partnership” which is available on our website.

Please note that, because it is not possible to provide accurate details of your benefits without taking account of these deductions, the pension and lump sum deductions will be shown on future statements of your benefits including:

- Retirement benefit estimates requested by your employer.
- Retirement benefit estimates requested by you or an authorised adviser acting on your behalf.
- Your final retirement statement.”

9. On 31 January 2016, Mr Y left the Scheme (**Date of Leaving**).

10. On 18 May 2016, the Trustee wrote to Mr Y about his deferred benefits in the Scheme (**the 2016 Leaver Statement**).

The 2016 Leaver Statement

11. The 2016 Leaver Statement split Mr Y’s entitlement into two periods of service. Benefits accrued prior to 1 October 2011 and benefits accrued post 1 October 2011.

12. For his service up to 1 October 2011, he was entitled to a deferred pension of £10,225.41 per annum and a lump sum of £30,676.23.

13. From 1 October 2011, he was entitled to a deferred pension of £2,625.02 and a lump sum of £7,875.06.

14. His deferred pension was based on his pensionable service (**PS**) and his pensionable salary (**Psal**) at the Date of Leaving. PS at the Date of Leaving was stated as 19 years and 129 days while Psal was £53,119.00.

15. Mr Y was advised that the benefits at the date of payment will be calculated in accordance with the rules of the Scheme.

16. On 13 August 2018, Mr Y wrote to the Trustee. He asked for an illustration of his benefits at age 55 and age 60. In response, the Trustee said that it was unable to provide projections of benefits more than twelve months in advance as it could not predict future pension increases.

The 2019 Quotation

17. On 1 July 2019, Mr Y requested a quotation of his pension benefits on the basis that he retired early at age 55, in June 2020. On 16 July 2019, the Trustee provided Mr Y with this information (**the 2019 Quotation**).

18. The 2019 Quotation stated that after a reduction for early retirement and assuming Mr Y took the maximum lump sum, he would be entitled to £7,944.24 per annum and a lump sum of £52,960.84.
19. The 2019 Quotation stated that the figures were provisional only and that the actual retirement benefits would be calculated in accordance with the Scheme rules, legislation, and factors in force at the date of Mr Y's retirement.
20. On 19 July 2019, Mr Y completed the Scheme Benefit Option Form which had been enclosed with the 2019 Quotation, indicating he wanted to take the maximum amount of tax-free lump sum and adjusted pension as provided in the 2019 Quotation.
21. On 23 July 2019, the Trustee wrote to Mr Y and confirmed receipt of his completed retirement paperwork.

The interest only mortgage

22. On 20 January 2020, Mr Y and his wife received a mortgage offer from Furness Building Society (**the Mortgage Lender**). The mortgage offer was to expire on 20 July 2020, and the duration of the loan was two years. The loan was an interest only plan and it was for the purchase of a house. At the end of the term of the mortgage Mr Y and his wife would have to repay £45,499.
23. The offer identified that Mr Y intended to pay the capital on the end terms of the mortgage by way of a pension. This included a lump sum from a scheme referred to as National Computing Centre Pension & Life Assurance Scheme and Supplementary Pension scheme (**the NCC pension**).
24. On 12 March 2020, Mr Y and his wife bought a new house.

Retirement Date

25. In June 2020, Mr Y turned aged 55 which was his requested retirement date. On the same day, the Trustee wrote to Mr Y. It advised that it had identified an error with the calculations of the payable benefits within its previous correspondence. It explained it had failed to apply the debit deduction in respect of the PSO. It enclosed a revised statement of the correct level of benefits Mr Y was entitled to. The revised statement showed that if Mr Y retired at his normal pension age (**NPA**), a pension of £7,457.38 per annum and a lump sum of £22,372.14 would be payable. The revised statement said that a revised early retirement quotation would be provided shortly
26. On 23 June 2020, Mr Y chased up his outstanding benefits which he contends he intended to use to clear the mortgage.

The 2020 Quotation

27. On 26 June 2020, Mr Y was provided with a new retirement quotation (**the 2020 Quotation**).

28. The 2020 Quotation set out Mr Y's provisional benefits after a reduction for early retirement at age 55 and assuming he took the maximum tax-free lump sum. The 2020 Quotation showed a pension of £3,902.52 per annum and a lump sum of £26,016.42. These figures were 50% lower than those set out in the 2019 Quotation.
29. On 30 June 2020, Mr Y elected to take the benefits stated on the 2020 Quotation.

The Internal Dispute Resolution Procedure

30. On 9 July 2020, Mr Y complained under stage one of the Scheme's Internal Dispute Resolution Procedure (**IDRP**). In summary, he complained about the incorrect quotations he was sent, and on which he had based his future. He asserted that he had sustained a financial loss as a result. His grounds of complaint reflected his position as stated to The Pensions Ombudsman (**TPO**) which is set out in paragraphs 42 to 49 below.
31. On 27 October 2020, the Trustee sent Mr Y's its stage one IDRP response. The Trustee upheld Mr Y's complaint in part. It explained that, while the benefits on the 2016 Leaver Statement and the 2019 Quotation had been overstated, Mr Y was not entitled to a higher award. Nonetheless, the Trustee offered him £1,000 for the distress and inconvenience he had suffered because of the maladministration on the part of the Trustee, in failing to apply the debit in respect of the PSO within the 2016 Leaver Statement and in the 2019 Quotation.
32. The Trustee further said that it could only pay Mr Y the benefits he was entitled to under the Scheme rules, and that redress for financial loss was only possible if Mr Y's reliance on the incorrect information was deemed reasonable. The Trustee explained that it did not consider that it was reasonable for Mr Y to have relied on the incorrect quotations because he was aware of the PSO and should have identified the omission of the pension debit and contacted the Trustee to query this. So, the Trustee's position was that it was unreasonable for Mr Y to have relied on the 2016 Leaver Statement and the 2019 Quotation without raising the failure to account for the PSO with the Trustee.
33. On 24 February 2021, Mr Y appealed the IDRP stage one decision. He said that the fact that the PSO was not accounted for in the 2016 Leaver Statement or the 2019 Quotation was not apparent to him. He had planned his early retirement based on the incorrect information provided by the Trustee. He reiterated his financial losses again.
34. On 11 May 2021, the Scheme's Advisory Committee (**the Committee**) replied to Mr Y under stage two of the IDRP. The Committee accepted responsibility for the errors in the 2016 Leaver Statement and the 2019 Quotation, although it considered that the error had been corrected and Mr Y now had the correct information as to his benefit entitlement under the Scheme. The Committee increased the award offered to Mr Y for the distress and inconvenience he had suffered to £1,500 but it did not uphold his complaint in relation to financial loss for broadly the same reasons as the IDRP stage one decision.

35. Subsequently, Mr Y referred his complaint to TPO.

The Trustee's position

36. It accepted that the 2016 Leaver Statement and the 2019 Quotation incorrectly failed to account for the PSO, and as a result the benefits on those correspondence were overstated. This was likely due to human error and/or an administrative oversight. However, a scheme is not bound by incorrect information and an overstatement does not give a member an entitlement to the overstated benefits.
37. Mr Y did not dispute the deduction to his benefits in respect of the PSO which provided for a very significant reduction in his benefits (60%). He also took no issue with how the benefits were calculated. Redress for financial loss could only be provided if Mr Y relied on the incorrect information to his detriment, and that it was reasonable for him to have done so.
38. It was not reasonable for Mr Y to have relied on the 2016 Leaver Statement or the 2019 Quotation because it would or should have been obvious to him that the PSO was not accounted for in either of the documents. It was not reasonable for Mr Y to have relied on the documents without having queried the missing debit in respect of the PSO. It was reasonable for Mr Y to have contacted the Trustee and had he done so, it was likely that the error would have been identified and corrected.
39. The financial arrangements that Mr Y had allegedly entered into as a result of the incorrect information were reversible and/or any losses could have been entirely mitigated by Mr Y and his wife. Mr Y could have sold his new home and purchase one of equivalent value to his previous house. Mr Y could have repaid the mortgage early without incurring repayment charges. Moreover, Mr Y and his wife could have sought alternative employment. No evidence had been provided to show that alternative employment had been sought, and the reduction of his annual pension was relatively small, £4,041.72 per annum.
40. Mr Y had not evidenced any losses he had suffered as a result of claiming his other workplace pension at age 55 or provided any documents in support of that contention.
41. It apologised for the error and the failure to account for the PSO reduction in the 2016 Leaver Statement and the 2019 Quotation, which amounted to maladministration. It had offered Mr Y £1,500 in recognition of the distress and inconvenience he had suffered, and it considered this offer was in line with TPO's guidance.

Mr Y's position

42. In July 2019, he requested and received his retirement options for taking his benefits at age 55. He signed and returned all the forms, requesting to maximise his lump sum. He received acknowledgement and reassurance that he would receive his benefits on his 55th birthday, which was in June 2020.

43. He had been misled, over a decade, to expect a higher retirement pension and lump sum than his actual entitlement. Based on this information, he obtained a short-term interest only mortgage. He relied on documents received from the Trustee as proof of his ability to clear the mortgage in June 2020. The maladministration was conveyed to him after his 55th birthday when he chased up his missing benefits.
44. Financial decisions were made based on the incorrect information and he had suffered as a result of this maladministration. He and his wife bought a new house on 12 March 2020. They moved houses to be close to his wife's father who required daily care. He claimed his other workplace pension on his 55th birthday in addition to his pension from the Scheme. This had now been paid out and could not be reversed. Moreover, he would not have taken his pension from the Scheme if he had been made aware of the true position in relation to these benefits.
45. He reduced his working hours to two days per week, which was irreversible. He worked for a charity and it was very difficult to find further employment at his age, especially following the 2020 pandemic. His wife reduced her working hours too and faced the same difficulties. They would struggle to raise their income to an adequate level to cover the additional costs that had since arisen. If they were to gain further employment it would leave them with less time to care for his wife's father. The situation was making them ill. They faced grave financial difficulties and had suffered a great deal of stress which had impacted him physically and mentally.
46. He said his financial losses were:
- A shortfall of £26,944.42 based on the original stated lump sum of £52,960.84 for which he had signed for in 2019 but instead received £26,016.42. He required the additional lump sum to repay his mortgage.
 - A shortfall of a pension of £4,041.72 per annum based on the original stated pension of £7,944.24 per annum.
 - The mortgage interest payments of £165.01 per month from 8 July 2020.
47. Over 25 years he would be in detriment by £130,987.42 because of the incorrect information on which he relied to plan his retirement and made irreversible decisions in good faith. He was not seeking that amount but was seeking a proportionate compensation for his losses and not the £1,500 offered by the Trustee.
48. The NCC pension only provided him with a lump sum of £10,055.28, which he had received in June 2020, as part of his early retirement.
49. The NCC pension lump sum was not enough to pay off the mortgage and the Mortgage Lender had the information about both pensions. He said that he was not sure why the Mortgage Lender had not referenced the pension subject to this complaint on the mortgage documents and that it must have been an administrative error on its part.

Adjudicator's Opinion

50. Mr Y's complaint was considered by one of our Adjudicators who concluded that no further action was required by the Trustee. The Adjudicator's findings are summarised below, in paragraphs 51 to 57
51. The basic principle for negligent misstatement (in the absence of any additional legal claim) is that a scheme is not bound to follow incorrect information. A member is only entitled to receive the benefits provided for under the scheme; that is, those based on correct information accurately reflecting the scheme's regulations/rules. Therefore, for Mr Y's claim to succeed he had to show that the Trustee owed him a duty of care, that the Trustee breached that duty, it was reasonably foreseeable that Mr Y would rely on the incorrect information, and that he relied on the incorrect information to his detriment.
52. The Adjudicator explained that the Trustee had agreed that it failed to account for the debit in respect of the PSO in the 2016 Leaver Statement and the 2019 Quotation, so the benefits were overstated. However, the Adjudicator explained that Mr Y was only entitled to receive his true entitlement under the Scheme Rules, which was the benefits in the Scheme with the appropriate deduction in respect of the debit that was created by virtue of the PSO in favour of Mr Y's ex-wife.
53. The Adjudicator explained that in their view, the Trustee owed Mr Y a duty of care and wrong information was provided. However, the 2016 Leaver Statement had said that the benefits at the date of payment would be calculated in accordance with the Scheme Rules and the 2019 Quotation had said that the retirement figures were provisional only.
54. It was also the Adjudicator's view that Mr Y had sufficient knowledge and confirmation of the PSO implementation in 2010. He was aware that 60% of his benefits in the Scheme were granted to his ex-wife and this was a significant proportion of the lump sum, and the pension accrued. He was advised that the deduction would be shown on his future statements.
55. The Adjudicator recognised that Mr Y had said that the error and failure to account for the PSO in the documents was not apparent to him, but unawareness was not a defence in law. The issue was whether it was reasonable for him to have relied on the documents given the facts as presented, which in this case was not. Mr Y was aware of the PSO. So, it would have been reasonable for him to have confirmed with the Trustee that the PSO debit had been accounted for in 2016 Leaver Statement and 2019 Quotation, although the deduction was not stated in the documents, before he had made any financial decisions on reliance on the figures on the documents. If he had made reasonable enquiries, the Adjudicator's view was that the error would have been uncovered sooner than it was.
56. Mr Y had argued that the Mortgage Lender was privy to the information in relation to both of his pension schemes, and that it had made an offer because of the erroneous information provided by the Trustee. The Adjudicator recognised that Mr Y was

advancing an argument of reliance and financial detriment. He had further explained to the Adjudicator that the reference only to the NCC pension on the mortgage offer as a way of repaying the mortgage was probably an error on the part of the Mortgage Lender. However, the Adjudicator explained that even if Mr Y had relied on the erroneous information to apply for the mortgage, this was considered unreasonable given what they had explained previously. In this instance, the Adjudicator was referring to their view that it would have been reasonable for Mr Y to have queried the position with the Trustee before relying on the documents.

57. The Adjudicator's view was that Mr Y had not suffered a financial loss as a result of the incorrect information, but he had suffered distress and inconvenience because of the misinformation. However, the Trustee's offer of £1,500 was in line with TPO's guidance for non-financial injustice so it was unlikely to be increased if the case was to proceed to Determination.
58. Mr Y did not accept the Adjudicator's Opinion, and the complaint was passed to me to consider. The Trustee made no further comments, Mr Y provided additional comments which do not change the outcome. The Additional comments as set out in paragraphs 59 and 60 below.
59. Mr Y said that he had asked many people how they would go about determining their pension and all had explained that they would ask the question of the pension provider. He said this was what he had repeatedly done, most recently in 2019 and 2020. He said he had searched online for information and that he was presented with results that suggested he ought to ask the provider. He said that he had no reasons to question the figures he had been given on the statements and many years had passed since the implementation of the PSO in 2010 and him taking his pension in 2020.
60. Mr Y further said that after the implementation of the PSO his circumstances had changed (he had been promoted at work, given grade rises, and his salary had increased dramatically). Moreover, he said that for a period after 2010, he had also made further voluntary contributions to his pension. All these matters had led him to believe that the information given by the Trustee was true. He and his wife had acted in good faith on the information provided to him by the Trustee and the result had been disastrous for both.

Ombudsman's decision

61. The Trustee owed Mr Y a duty of care to provide him with accurate information about his pension entitlement. Where incorrect information has been provided, the Trustee can be required to compensate him for losses he suffered in reasonable reliance on that incorrect information and where his reliance was reasonably to have been expected by the Trustee when it provided the incorrect information¹. The Trustee can only be liable to pay amounts based on the incorrect information where he has

¹ Liability for negligent misrepresentation.

incurred liabilities or expenditure in reliance on the incorrect information and, in all the circumstances, it would be wholly unfair (or “unconscionable”) not to require the Trustee to pay the amounts based on the incorrect information². Subject to the above, Mr Y is only allowed to receive the correct benefits under the Scheme, and the erroneous documents do not change his entitlements.

62. I am sympathetic to Mr Y’s position, but I find that it was not reasonable for him to have relied on the incorrect information without querying this with the Trustee because it ought to have been obvious that there was an error in the figures given the omission to account for the debit. I find that Mr Y should have questioned the documents and queried the figures as he understood the pension was subject to a PSO debit. When the Trustee wrote to Mr Y to confirm the implementation of the PSO, he was advised that the pension and lump sum deductions would be shown on the future statements. The deductions were significant as Mr Y’s ex-wife was granted 60% of his benefits in the Scheme.
63. The 2019 Quotation also stated that the figures were provisional only. Mr Y took out the mortgage after the 2019 Quotation. Even aside from Mr Y’s knowledge of the PSO and the absence of any mention of it in the 2019 Quotation, I find that reliance on the 2019 Quotation for the purpose of entering into a mortgage was not reasonably to have been expected by the Trustee: for liability to arise the Trustee needed to be aware that the information would be relied for a transaction of that type and it needed to be reasonable for them to expect him to rely on it. There is no evidence that the Trustee knew or knew enough that it should have realised that Mr Y would rely on the 2019 Quotation to take out the mortgage and the 2019 Quotation stated that the figures were provisional.
64. I also agree with my Adjudicator that Mr Y knew of the PSO and ought at least to have realised there was a possibility that it had not been taken into account in the 2019 Quotation. Mr Y’s work circumstances between the implementation of the PSO and his retirement may have changed but the debit applicable to his benefits in the Scheme remained in place. Consequently, I do not find it was reasonable for Mr Y to have relied on the erroneous documents without querying them further.
65. I recognise that Mr Y said he relied on the documentation supplied by the Trustee to obtain the mortgage. He also said that he believed he would have had sufficient funds to clear the mortgage on 22 June 2020 when his benefits were due. However, the benefits from the Scheme in question were not listed on the mortgage conditions as a way to repay the mortgage and the Mortgage offer was for two years. I also note that Mr Y had a reason to move. He and his wife wanted to be close to his father-in-law who was elderly and required care. For these reasons, I consider that there is not enough information for me to decide that Mr Y would not have taken out the mortgage or that he would not have been granted the mortgage without the incorrect information he had received from the Scheme.

² Estoppel by representation.

66. Since I have found that it was not reasonable for Mr Y to have relied on the incorrect information without querying the figures and that the Trustee could not have reasonably expected him to rely on the 2019 Quotation to take out a mortgage or buy a house, I do not find that the Trustee can be held responsible for any financial commitments Mr Y claimed had arisen from the alleged reliance on the incorrect information. In the circumstances, I also do not find that it would be wholly unfair for the Trustee not to be required to pay the incorrect benefits.
67. Nonetheless, if the error should have been obvious to Mr Y, it should also have been picked up by the Trustee sooner than it was. Because of this error and delay, Mr Y has suffered a non- financial injustice. The erroneous information also means Mr Y has suffered a loss expectation, rather than a financial loss. Awards for losses of this type are not intended to bridge the gap between the amount the individual will actually receive and the amount the individual expected to receive. Rather, such awards are to recognise the disappointment suffered and the time spent dealing with the matter.
68. I acknowledge that the incorrect information would have caused Mr Y a serious distress and inconvenience, but I find that the Trustee's offer of £1,500 sufficiently addresses the non-financial redress in this case.
69. I do not uphold Mr Y's complaint.

Camilla Barry
Deputy Pensions Ombudsman
1 October 2025