

Ombudsman's Determination

Applicant	Mr R
Scheme	NHS Pension Scheme (the Scheme)
Respondent	NHS Business Services Authority (NHS BSA)

Outcome

1. I do not uphold Mr R's complaint, and no further action is required by NHS BSA.

Complaint summary

2. Mr R's complaint is that NHS BSA incorrectly calculated his retirement benefits which resulted in him receiving lower benefits in March 2021, than he was entitled to. Although Mr R's retirement award was corrected in July 2021, he would like NHS BSA to compensate him for the distress and inconvenience he has suffered.

Background information, including submissions from the parties

3. On 1 February 1988, Mr R began employment with Bromley Hospitals NHS Trust (**the Trust**) and joined the Scheme.
4. On 3 December 2007, Mr R left employment with the Trust and became a deferred member of the Scheme.
5. On 28 January 2011, NHS BSA contacted the Trust to confirm details regarding Mr R's pensionable pay. When no response was received, on 2 June 2011, NHS BSA constructed figures based on the information it had previously received.
6. On 16 March 2012, NHS BSA reached out to the Trust again, requesting up to date information regarding Mr R's pensionable pay. But, once again no information was provided by the Trust.
7. On 5 February 2021, Mr R telephoned NHS BSA and requested for it to provide him with a retirement quotation. NHS BSA subsequently wrote to the Trust to obtain Mr R's pensionable pay details. As the Trust failed to respond to NHS BSA's request for information, NHS BSA relied on the data it held to calculate a retirement quotation for Mr R.

8. Around 18 February 2021, NHS BSA provided Mr R with a retirement quotation. This quotation was calculated based on a whole-time equivalent pay of £49,802.32. This quotation showed an unreduced annual pension of £15,567 and a lump sum of £46,972. It also showed a reduced annual pension of £11,050 and a lump sum of £45,422, if Mr R took benefits from the Scheme before his Normal Retirement Date (**NRD**) in July 2022.
9. On 1 March 2021, Mr R submitted retirement application forms to NHS BSA and his reduced retirement benefits were put into payment.
10. On 16 March 2021, Mr R raised concerns with NHS BSA regarding the calculation of his retirement benefits and subsequently began corresponding with the Trust to obtain accurate information about his pensionable pay.
11. On 27 April 2021, the Trust contacted NHS BSA for the first time and asked for it to review the calculation of Mr R's retirement benefits explaining that the pensionable pay figure it had used appeared to be low.
12. Around the same time, Mr R raised a complaint with NHS BSA under the Scheme's Internal Dispute Resolution Procedure (**IDRP**) and submitted information he had compiled regarding his pensionable pay from the Trust.
13. In his complaint, Mr R highlighted that after leaving the Scheme, he had encountered difficulty in obtaining his accurate pensionable pay figure which resulted in NHS BSA incorrectly calculating his retirement benefits. Mr R requested that NHS BSA recalculate his retirement benefits and provide him with compensation for the amount of time he had spent in trying to obtain his correct pay figure from the Trust.
14. On 2 July 2021, NHS BSA investigated the matter and recalculated Mr R's retirement benefits based on a whole-time equivalent pay of £56,054.80. This increased Mr R's Scheme entitlement to an annual pension of £12,441 and a lump sum of £51,375.
15. On 7 July 2021, Mr R received arrears payments for the shortfall in the retirement benefits paid to him, alongside late payment interest. These arrears consisted of £667 for his annual pension and £5,743 for his lump sum.
16. NHS BSA considered Mr R's complaint under both stages of the IDRP and stated that it could not uphold his complaint. NHS BSA explained that Mr R's retirement benefits had been calculated at each stage based on either, known information or its best estimate for the unknown information. Therefore, it did not consider it appropriate to offer compensation for the amount of time Mr R spent with the Trust trying to ascertain the information NHS BSA had made numerous attempts to obtain, albeit without success. NHS BSA stated that while it performed the central administration of the Scheme, the local administrative functions were performed by individual employers, which in Mr R's case would be the Trust. Consequently, Mr R's grievances ought to be directed towards the Trust as it failed to provide up-to-date information to NHS BSA when he left the Scheme and when information was requested by NHS BSA.

Adjudicator's view

17. Mr R's complaint was considered by one of our Adjudicators who concluded that no further action was required by NHS BSA. The Adjudicator's findings are summarised below in paragraphs 18 to 20.
18. NHS BSA was the administrative centre for the Scheme, it relied on employers to provide accurate and timely information about a member's pensionable service, contributions and pay. It was the responsibility of the employer to ensure that these records were maintained correctly and communicated to NHS BSA using the established procedures. It was also the responsibility of the employer to undertake the correct actions in response to primary pension events such as when a member joined the Scheme, opted out of the Scheme, left the Scheme or retired.
19. In Mr R's case, it was clear that NHS BSA had made repeated attempts to obtain the necessary information from the Trust in order to accurately calculate and pay his retirement benefits. These attempts were made in 2011, 2012 and in 2021, but NHS BSA's requests to the Trust went unanswered. The first time NHS BSA received a response from the Trust regarding Mr R's pensionable pay was on 27 April 2021, at which point, NHS BSA acted promptly to revise his retirement award. Taking all of this into account, the Adjudicator was of the opinion that there had been no maladministration on the part of NHS BSA. In her view, NHS BSA had followed the proper procedures and sought the correct information from the Trust on multiple occasions. The initial calculation of Mr R's retirement benefits was correct at the time, based on the available information. The shortfall that was subsequently identified was caused by the employer's failure to respond to NHS BSA's requests for information. The Pensions Ombudsman could not hold NHS BSA accountable for errors or omissions outside its control.
20. Consequently, the Adjudicator was of the view that NHS BSA was not responsible for any maladministration. Therefore, Mr R's complaint could not be upheld, and compensation was not warranted in his case.
21. Mr R did not accept the outcome outlined in the Adjudicator's view and said that:-
 - Since leaving the Scheme in 2007, the Trust had been taken over by different organisations, making it extremely difficult and time consuming for him to obtain his correct pensionable pay figure.
 - There was a systemic issue with how pay records were maintained for Scheme members. As the main body responsible for administering the Scheme, NHS BSA should be held to account for failing to address this ongoing problem, particularly as it would likely affect other members in similar situations.
22. Following this, the complaint was passed to me to consider. I agree with the Adjudicator's view and note the additional points raised by Mr R.

Ombudsman's decision

23. Mr R remains dissatisfied that he has not been compensated for the time and effort he spent obtaining the correct pensionable pay information from the Trust.
24. I will only make directions on cases if maladministration can be found in relation to the complaint. In this instance, I find that there has been no maladministration.
25. I consider that NHS BSA is not at fault for the initial underpayment of Mr R's retirement benefits in March 2021. It is clear that NHS BSA made repeated and reasonable attempts over several years to obtain accurate pay information from the Trust, who failed to respond. In the absence of this information, NHS BSA acted appropriately by using the best information available to calculate Mr R's retirement benefits. This meant that there was no delay in paying Mr R a retirement benefit. Further, once the correct pensionable pay figure was provided by the Trust, NHS BSA promptly recalculated the benefits payable to Mr R and paid all arrears with interest.
26. I find that the responsibility for maintaining accurate pay records lies with the Trust, not NHS BSA. There is no evidence of maladministration by NHS BSA and without such a finding, Mr R's complaint cannot be upheld and nor can compensation be recommended. It is regrettable that Mr R experienced some inconvenience when obtaining the correct pensionable pay information from the Trust. However, I find that this was due to the inactions of the Trust and not NHS BSA.
27. Therefore, I do not uphold Mr R's complaint.

Camilla Barry

Deputy Pensions Ombudsman
19 June 2025