

## Ombudsman's Determination

Applicant	Mrs A
Scheme	Local Government Pension Scheme ( <b>LGPS</b> )
Respondent	Surrey Pension Team ( <b>SPT</b> )

## Outcome

1. I do not uphold Mrs A's complaint, and no further action is required by SPT.
2. My reasons for reaching this decision are explained in more detail in paragraphs 51 to 59 below.

## Complaint summary

3. Mrs A has complained that she was paid a lower pension lump sum and annual pension than what was shown on SPT's member portal. She said that she based her decision to retire on this information.
4. She also complained about the quality of service provided and the detriment to her mental health.

## Background information, including submissions from the parties

5. The sequence of events is not in dispute, so I have only set out the key points. I acknowledge there were other exchanges of information between all the parties.
6. On 1 August 1989, Mrs A joined the LGPS and remained a member until 15 October 2020. During this time Mrs A accrued benefits governed by different LGPS regulations: the Local Government Pension Scheme Regulations 1997 (As Amended), the 2007/2008 Regulations<sup>1</sup> and the Local Government Pension Scheme Regulations 2013. The normal pension age (**NPA**) for service accrued in the LGPS prior to 1 October 2006 was 65, with the NPA for benefits accrued under the Local Government Pension Scheme Regulations 2013 being 66.

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<sup>1</sup> These regulations are the Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007, the Local Government Pension Scheme (Administration) Regulations 2008, and the Local Government Pension Scheme (Transitional Provisions) Regulations 2008.

7. As Mrs A was a member of the LGPS prior to 1 October 2006, her benefits had been governed by different sets of LGPS regulations with differing NPAs. In addition, different reduction factors were applicable to her accrued benefits in the different sections of the LGPS. As a result of Mrs A's years of service and age being added together, she satisfied the 85-year rule<sup>2</sup>. This meant that despite part of her benefits having an associated NPA of age 65 and the other part age 66, she could have received her benefits in their entirety at age 65 without any reductions for early payment.
8. Each year between 2017 and 2020, SPT issued an Annual Benefit Statement (**ABS**) to Mrs A showing the estimated value of her benefits as of 31 March for each respective year. The lowest maximum lump sum quoted in these various statements was £82,275.83 and the largest was £96,022.38. The lowest standard annual pension quoted was £16,721.59 and the largest was £19,742.74.
9. On 7 October 2020, Mrs A received a letter from SPT stating the maximum lump sum for her elected retirement date of 16 October 2020 was £33,256.07. Attached was an Early Retirement Election Form, a Pension Claim Form and a Deferred Benefit Guide: Members over age 55. Mrs A says she checked these figures against the online portal projection tool (**the projection tool**) which showed a lump sum of £120,696.77 if she retired on the same date. The projection tool displayed figures based on the information input by the user.
10. On the same day, Mrs A contacted SPT who confirmed that the estimate provided was significantly less than was accurate and said it would send out revised retirement paperwork.
11. On 15 October 2020, Mrs A had not received updated paperwork confirming her pension figures from SPT. She contacted SPT, and on the same day it confirmed that her maximum lump sum figure was £105,106.43.
12. Following her contact with SPT, on the same day, Mrs A accessed the projection tool. The information showed:-
  - Her projected salary was £47,511.00.
  - Her projected lump sum was £120,696.77.
  - Her projected annual pension was £18,104.54.
13. On 21 October 2020, Mrs A contacted SPT to request accurate pension figures. She also said that she qualified for unreduced benefits under the 85-year rule. Mrs A explained that the online portal was displaying different figures to those provided in writing by SPT.

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<sup>2</sup> Broadly, if a member's age plus their scheme membership (in whole years) equals 85 they may be able to take their pension before their NPA, without a reduction for early payment.

14. Between 22 October 2020 and 11 November 2020, Mrs A corresponded with SPT on numerous occasions regarding the issue. She stated that its responses were unhelpful and dismissive.
15. On 19 November 2020, SPT explained to Mrs A why the figures produced by the projection tool differed to the estimates that she had received. It said that incorrect values had been input into the Career Average Revaluated Earning (**CARE**) field on the projection tool, and this resulted in a greater than expected lump sum being generated. It confirmed that her correct maximum lump sum entitlement was £105,106.43.
16. On 16 December 2020, Mrs A received a letter stating that her maximum lump sum would be £104,738.75 and not the £105,106.43 which had been quoted previously.
17. On 20 December 2020, Mrs A submitted her formal complaint to SPT. She said:-
  - She was embarrassed that due to the shortfall in her retirement benefits she had to borrow money from family and friends in order to pay her bills and mortgage.
  - She had incurred debts while waiting for her case to be processed.
  - She could not buy Christmas presents for her friends or family.
  - She asked to be paid the maximum lump sum and annual pension quoted by the projection tool, as well as interest on both at the daily rate of 8% from 16 October 2020.
18. On 21 December 2020, Mrs A's pension and lump sum were paid. She received a lump sum of £104,931.30. SPT also paid her arrears and interest to reflect the late payment date.
19. On 7 January 2021, SPT responded to Mrs A's complaint. It said:-
  - It accepted that she had received a poor standard of service in that it failed to provide responses earlier in the complaints process within its standard service timeframe.
  - It noted that her issues regarding the discrepancy between the figures displayed using the projection tool and the estimate it had sent her had been addressed. Since the projection tool produced figures determined by user input, it could not comment on or take responsibility for the variation.
  - Regarding the later difference between the estimate, it had sent her and her final figures, it stated that even in those circumstances, the estimate made it clear that the information was not exact and could differ from the member's actual benefit entitlement.
  - Since her complaint was submitted, her pension and lump sum had been finalised, and payments had been made. It acknowledged her request for 8% per

day interest for late payment, however, it had calculated this at 1% per day, above the base rate per day, as per the relevant LGPS regulations.

20. On 2 June 2021, Mrs A submitted her complaint under stage one of the Scheme's Internal Dispute Resolution Procedure (**IDRP**). She said:-

- Its initial response stated that the incorrect CARE details had been input into the projection tool. She was unsure what SPT was referring to as the only field which she could populate manually was her retirement date.
- She appreciated that figures generated by the projection tool were estimated but a difference of £15,765.47 was significant.
- The interest at 1% above the base rate per day had not been awarded to her.
- SPT had not explained why the lump sum had been further reduced from £105,106.43 to £104,738.75.
- She had reluctantly signed to accept the £105,106.43. However, she had not been given any opportunity to agree, verbally or in writing, to accept the further reduced value of £104,738.75.
- To resolve her complaint, SPT should pay her an additional £15,765.47. She also wished to have her annual pension increased to £18,104.54 in line with the figures confirmed by the projection tool. She also requested a reasonable sum in acknowledgment of the unreasonable delay experienced and the impact her complaint had on her pre-existing health conditions.

21. On 2 July 2021, SPT responded to Mrs A's complaint under stage one of the Scheme's IDRP. It said:-

- It accepted that the time taken to respond and resolve her queries fell short of the expected level of service.
- Some of the delays between her retirement date and receipt of payment were unavoidable as there had been an ongoing discussion regarding her queries.
- It was not possible for it to assess whether Mrs A had populated more fields than just her leaving date when using the projection tool. However, it noted that Mrs A's assertion that only the leaving date could be altered was incorrect, as a number of fields could be altered or amended. Since the screenshot she had provided did not display what these fields were populated with, it could not comment on how exactly the figure of £120,696.77 had been calculated.
- The projection tool webpage also included a warning message which stated that the figures provided by the system were indicative and should not have been fully relied upon.

- It had investigated her concerns regarding the lump sum quoted and the amount actually paid. It confirmed that an error had occurred, and she had been underpaid £370.59 of the lump sum. It arranged for this to be paid to her as soon as possible. In addition, it had calculated a pension arrears figure of £72.07 which was due to be paid on 6 July 2021.
- It had reviewed the interest associated with the late payment of her benefits and confirmed that she was also due to receive a further interest payment of £192.55.
- It offered £500 in recognition of the significant distress and inconvenience she had experienced as full and final settlement of her complaint.
- It was not able to increase her benefits above the level to which she was entitled. It apologised for the erroneous information but confirmed that the benefits that she had received were now correct.

22. On 25 September 2021, Mrs A escalated her complaint under stage two of the Scheme's IDRP. In summary, the new points she raised were:-

- It would have been prudent for telephone recordings to be maintained along with physical evidence of the conversations she had with SPT. Despite this, it had stated it was "impossible to make a fair-minded conclusion either way." Yet it had made a conclusion, in favour of SPT.
- It should carry out further investigation into ascertaining the truth regarding the calculation of the figures provided by the projection tool.
- She disputed SPT's assertion that she was able to change numerous elements of the projection tool's fields. She could only amend the "leaving date" field and the "sliding scales" field.
- She considered that an estimate should be fairly near the figure that was actually payable. A difference of approximately £15,000 was an unreasonable difference during a period of time where she was making financial decisions.
- SPT should look into its practices and improve its systems. The retirement figures she had been provided with changed continuously.
- To her knowledge, the original interest of 1% above the base rate per day which she was indicated to receive in SPT's original response to her complaint had not been paid at all.

23. On 8 November 2021, SPT responded to Mrs A's complaint under stage two of the Scheme's IDRP. It said:-

- The findings stated in the IDRP stage one letter were fair and an appropriate level of remedial action was proposed.

- As recordings of telephone conversations were only held for two months, it was unable to determine with certainty whether the call was handled in an appropriate manner.
- The projection tool was only designed to provide estimated figures, based on the information input by the user. It confirmed that the benefits Mrs A was in receipt of were now correct.
- It considered the offer of £500 as a full and final settlement of her complaint to be proportionate.

### **Summary of Mrs A's position**

24. There was no indication at the time that the figures provided by the projection tool were estimated or only illustrative figures.
25. She had notified her employer of her retirement in July 2020, three months prior to her elected retirement date, as was mandatory. SPT should have administrated and collated paperwork quicker than three working days prior to 15 October 2020.
26. She had planned to retire and based her financial expenditure on the amounts provided by the projection tool. She would not have relied upon this if it stated the information was only an estimate.
27. She was not able to access the CARE pay field when using the projection tool, and this information was pre-populated.
28. She noted the ABSs referred to by SPT and queried why it had designed a sophisticated projection tool if it expected members to rely on the ABSs to obtain information about their pension entitlement.
29. She disagreed that the reduction to her lump sum amount, which was later corrected, could have been a system error. She stated that computer systems do not make errors and at minimum the issue occurred due to sub-standard computer programming.
30. The continual use of the words "estimate" and "for illustrative purposes" were an attempt to subconsciously embed the word in the Adjudicators' minds to sway their decision.
31. She felt SPT had displayed discriminatory behaviour when handling her complaint, saying that it did not wish to see her receive her pension benefits as it resented the benefits accrued.

### **Summary of SPT's position**

32. The projection tool stated that if a member used it to estimate their pension benefits, that the figures produced should be used for illustration purposes only. Mrs A should not have relied on that information alone.
33. ABSs were sent to members each year, providing a projection of the value of the benefits to 31 March of that year, along with an estimated value if the member continued to contribute at the same rate until their NPA.
34. It provided the ABSs for the years 2017, 2018, 2019 and 2020. Given that the figures in the ABSs were considerably lower than the figure shown on the screenshot provided by Mrs A, it was not unreasonable to expect her to have noticed the disparity and queried it before making financial decisions.
35. The screenshot provided by Mrs A displayed the estimated figures she may have received but did not display the information that she had input at the calculation stage. It had carried out investigations to understand why the projection tool estimation was significantly greater than the accurate information provided in her ABSs. The annual pension of £18,504.53 and increased lump sum of £120,696.77 quoted by the projection tool were benefits to which Mrs A would have been entitled if she had continued to contribute into the Scheme until her NPA.
36. Given that Mrs A retired nearly three years prior to her NPA, she should not have reasonably expected to receive the amount projected.

## **Adjudicator's Opinion**

37. Mrs A's complaint was considered by one of our Adjudicators who concluded that it should not be upheld and that no further action was required by SPT. The Adjudicators findings are summarised in paragraphs 38 to 47 below.
38. SPT had agreed that Mrs A was provided with incorrect information on several occasions, including an initial incorrect estimate on 7 October 2020, and further incorrect information relating to her lump sum. So, there was no doubt that a problem had occurred, and that Mrs A had been disadvantaged by the error.
39. The provision of incorrect information amounted to maladministration. As maladministration had occurred, the normal course of action would have been, as far as possible, to put Mrs A back into the position she would have been in had the error not occurred. That did not however, mean paying Mrs A a level of benefit to which she was not entitled. Mrs A needed to show that she relied on the incorrect information and that it was reasonable for her to have done so.
40. Prior to accessing the projection tool and receiving the incorrect information, Mrs A had received ABSs from 2017 to 2020. The highest maximum lump sum shown in the ABSs was £96,022.38. Given that the lump sum estimated by the projection tool was circa £25,000 greater than this, and she was within close proximity to her retirement date, the significant difference between the figures should have been a warning sign to Mrs A that something might be wrong. Members of a scheme were expected to

read and understand the information provided within an ABS in full. While pensions could be complex, the difference in figures should have prompted Mrs A to have at least checked the figures with SPT before making any financial decisions. It was not reasonable for Mrs A to rely solely on the figures provided by the projection tool.

41. SPT had stated that the inflated pension figures were generated because of a user input error in the CARE pay field of the projection tool. Mrs A refuted that statement and said that every field, besides the retirement date, was locked and pre-populated. The Adjudicator could not see any dispute over the fact that the CARE pay field, whether pre-populated or not, was inaccurate. It would have been reasonable for Mrs A to review the accuracy of the fields which were being used to generate her projected benefits. Had she done so, she should have noticed that the pay figure was incorrect and thus expected the resulting projection to be inflated. It was not reasonable for Mrs A to make financial decisions based on projections that may not have been accurate.
42. Mrs A considered the continual use of the words “estimate” and “for illustrative purposes” to be an attempt to influence the Adjudicators’ investigation. All complaints were investigated on an unbiased, independent basis, determined by the facts of the case alone. Whether or not the information supplied to Mrs A was an estimate was a relevant element of the complaint and use of this word, was appropriate in the circumstances. The reiteration of words had no influence on the outcome of the complaint.
43. Mrs A felt that she had been discriminated against. The Adjudicator reviewed all of the communication submitted by both parties and could see no evidence to substantiate Mrs A’s claim that she had been discriminated against in regard to this matter.
44. Considering the available evidence, specifically the grossly inflated figures produced by the projection tool when compared to the ABSs, the Adjudicator was satisfied that SPT was not responsible for any direct financial loss to Mrs A. It was unreasonable for her to base her financial decision on information that was clearly flawed and not properly verified by Mrs A.
45. The Adjudicator also considered whether the incorrect information constituted non-financial injustice, such as distress and inconvenience.
46. Mrs A had received a poor level of service by SPT. This was because:-
  - The quality and speed of responses in the earlier stages of Mrs A’s complaint were sub-standard.
  - Mrs A received incorrect information on two separate occasions. The initial lump sum quotation on 7 October 2020, followed by a further incorrect quotation on 16 December 2020.



- In its stage one IDR response, SPT informed Mrs A that it had paid her a lower lump sum to which she was entitled.
- SPT had acknowledged its failure to pay Mrs A the correct level of interest on the late payment of her benefits.
- SPT had stated that telephone recordings were only kept for two months. It had accepted that its speed of response was unacceptable initially. Had SPT discharged its customer service duties adequately, these telephone recordings may have still been maintained at the point which Mrs A sought to recover them.

47. SPT had made an offer of £500 as full and final settlement of Mrs A's complaint. Considering the circumstances of her complaint, specifically the inaccurate information provided, and the poor quality of responses and explanations provided by SPT, it was the Adjudicator's view that the offer was appropriate in the circumstances and reflective of the Ombudsman's guidance on non-financial injustice.
48. Mrs A 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:-
- Irrespective of the ABSs in the preceding years before her retirement, she still expected the projection tool to match with the ABSs. She certainly did not expect a discrepancy of over £15,000.
  - She was taken aback to read at paragraph 40 of the Adjudicator's Opinion that "...whether it is more likely than not that a member relied on the incorrect information to their detriment ..." would need to be considered. She thought it was beyond doubt that she had suffered financially.
  - As the difference between the projection tool and ABSs was so large, she questioned the use of having a projection tool in the first place since it was not fit for purpose, and therefore useless.
  - She was surprised and disappointed that further investigation was not conducted into SPT's release as pension provider for Hillingdon Council. She quoted another similar case which she considered to demonstrate that SPT had a tendency for malpractice<sup>3</sup>. She felt the same approach and consequent upheld decision should be applied to her situation.
49. As Mrs A did not accept the Adjudicator's Opinion, the complaint was passed to me to consider. I have considered the additional points made by Mrs A, but they do not change the outcome, I agree with the Adjudicator's Opinion.

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<sup>3</sup> <https://www.pensionsage.com/pa/TPO-upholds-complaint-against-Surrey-County-Council.php>

## **Ombudsman's decision**

50. Mrs A complained that she was paid a lower pension lump sum and annual pension than was shown on SPT's projection tool. She said that she based her decision to retire on this information and has suffered a financial loss as a result.
51. The Adjudicator has already correctly pointed out that the basic principle for negligent misstatement is that a scheme is not bound to follow and pay the amount set out in the incorrect information. A member is only entitled to receive the benefits provided for under the relevant scheme rules. That is, the benefits based on correct information accurately reflecting the scheme provisions. In assessing Mrs A's case I will only consider whether it is more likely than not that a member relied on the incorrect information to their detriment and that it was reasonable for them to do so. In Mrs A's case, I find that it was not reasonable for her to have relied solely on the figures provided by the projection tool when electing to retire before her NPA.
52. Mrs A has said that irrespective of the ABSs provided prior to her retirement, she still would not have expected the projection tool to provide retirement information that differed so markedly. I consider Mrs A's assumption that she should discount the ABSs and rely solely on the projection tool to be incorrect. As Mrs A has stated, she would have expected the two to match, and did not expect such a significant difference. Even a cursory comparison between the ABSs and the figures provided by the projection tool would have shown that there was an issue. So, it should have been self-evident that something was not correct, and this warning sign should have prompted Mrs A to seek further clarity prior to making financial decisions. I find that it was unreasonable for Mrs A to rely on the projection tool in isolation, particularly when making such an important decision.
53. Mrs A has also said that the Adjudicator's suggestion at paragraph 40 of the Adjudicator's Opinion that "...whether it is more likely than not that a member relied on the incorrect information to their detriment ..." surprised her as she considered this an obvious fact. However, the issue is whether "it was reasonable for [her] to do so", as was set out in the Adjudicator's Opinion. As mentioned, in this case, I do not consider it reasonable for her to have relied on the projection tool.
54. I note that Mrs A has questioned the purpose of having a projection tool in the first place if it should not be relied upon. I understand Mrs A's frustration at having received incorrect or misleading information via the projection tool. However, the projection tool provides a helpful, indicative service. But the figures provided should be read alongside any other available LGPS literature and not used exclusively to make irrevocable financial plans – particularly as SPT also point out (as set out in paragraph 32 above) that the projection tool stated that if a member used it to estimate their pension benefits, the figures produced should be used for illustration purposes only. Had Mrs A compared the ABSs, and figures obtained from the projection tool she would have undoubtedly seen that there was an obvious issue and could have tailored her financial planning accordingly or made enquiries about the difference. Having a projection tool alongside an ABS system allows a member to

check that the information being supplied is consistent and would aid in identifying errors without the need for deeper pensions knowledge.

55. Mrs A has also said she was surprised and disappointed that further investigation was not conducted about why SPT were not retained as administrator for the Hillingdon Council section of the LGPS. Mrs A quoted another similar case which she considered to have demonstrated that SPT had a tendency for malpractice.
56. I have reviewed the case referred to by Mrs A. In that case, the Council was instructed to recalculate the member's pension figures because the full-time salary used and its effect on the member's death in service benefits were factually incorrect. This meant that the member was not in receipt of, or due to receive, the level of benefit to which they were entitled. The complaint was upheld on this basis. In Mrs A's situation, while misinformation has occurred, the figures which she is actually in receipt of, are accurate. So, Mrs A is receiving the level of benefit to which her contributions entitle her. It is on this key difference that the two cases are distinguished. So, the case Mrs A has referred to cannot be used as precedent in support of her case.
57. I have reviewed the poor level of service provided to Mrs A by SPT. I consider the £500 offered in recognition of the significant distress and inconvenience she has suffered to be appropriate in the circumstances. As this offer was made prior to her submitting her complaint to The Pensions Ombudsman, it is for Mrs A to approach SPT if she wishes to accept this offer.
58. I do not uphold Mrs A's complaint.

**Dominic Harris**

Pensions Ombudsman

9 May 2025