

Ombudsman's Determination

Applicant	Miss E
Scheme	NHS Pension Scheme (the Scheme)
Respondent	NHS Business Services Authority (NHS BSA)

Outcome

1. I do not uphold Miss E's complaint and no further action is required by NHS BSA.

Complaint summary

2. Miss E has complained that she overspent on her credit card account based on an incorrect estimate sent to her by NHS BSA and should be compensated for this.

Background information, including submissions from the parties

3. The sequence of events is not in dispute, so I have only set out the salient points. I acknowledge there were other exchanges of information between all the parties.
4. On 16 July 2001, Miss E joined the Scheme.
5. On 3 November 2017, Miss E left the employment of the NHS and became a deferred member in the Scheme.
6. On 14 September 2021, Miss E accessed her NHS annual benefits statement (**the ABS**) on the Total Rewards Statement online portal. The ABS included an estimate of the current value of her benefits. Page two of the ABS stated the following:-

"Pay - £64,751.61

Updated to 3/11/2017

Pension £2,911 a year

[Pension Commencement] Lump Sum (**PCLS**) £8,733 PCLS

The current value of your NHS Pension Scheme benefits is there to provide an indication only.

..."

7. A 'Statement Disclaimer' on page four stated:-

"Please be aware this is an estimate and shown for guidance only. You should check the amount of Pensionable Pay quoted is consistent with your current pay or what would be the full time equivalent pay if you are currently work part time. If the figure is significantly different you should contact your employer. If you are a practitioner you should also check your dynamising sheet to ensure the figures reflect the pay information you have provided. Figures are based on known information. Exact retirement figures cannot be given until final pay and service details are known.

Please note - Any projection to your Normal Pension Age of 60 (or 55 if you have special class/MHO status) is provided on the assumption you continue to be a contributing member of the 1995 Section until you retire.

For further information please visit the TRS information website."

8. On 10 December 2021, NHS BSA received Miss E's completed NHS Pensions Deferred benefits claim form. This was after her normal pension age (**NPA**) of 60.
9. On 21 December 2021, NHS BSA wrote to Miss E to confirm her retirement benefits and enclosed a Retirement Benefit statement. It stated the following:-

"Pension - £923.80 a year

[PCLS] - £2,771.41"

10. On 7 January 2022, NHS BSA wrote to Miss E in response to an enquiry she had made. It said:-

"...whilst NHS Pensions is the administrative centre for the NHS Pension Scheme for England and Wales, we rely on NHS employers to supply the information we need to update member's records and to calculate benefits.

At the end of each financial year, employers provide NHS Pensions with confirmation of how many hours each member has worked, total pension contributions paid by both employee and the employer and pensionable pay information. We do not have access to employer payroll information.

We have reviewed your case and have established that you are in receipt of the benefits to which you are correctly entitled. Regretfully the benefits quoted on your total reward statement were overstated due to incorrect pay and hours information given by your former employer for your 2017 employment.

This was revealed whilst processing your retirement application, we queried it with the employer in question and the pay and hours information was updated. Unfortunately, we omitted to advise you that the total reward statement was incorrect. On behalf of NHS Pensions, we would like to apologise for the incorrect information that was provided to you and for any inconvenience this may have caused.

...

11. On 7 February 2022, Miss E made a complaint to NHS BSA. She said that based on the ABS she spent approximately £3,000 on a credit card which she rarely used, believing the expected PCLS of £8,733 would easily pay off the extra spending. She estimated that she spent £2,000 more than if she had received the correct information in the ABS. Miss E included bills from a credit card account in her name which showed spending of £3,425.42 between 10 November 2021 to 3 January 2022, and £0 from October 2019 to December 2020 on the same account. There were no statements showing spending between January 2021 to 9 November 2021, but the credit card account was in credit by £328.81 on this date.
12. On 1 April 2022, NHS BSA responded to Miss E's complaint under stage one of the Scheme's two stage Internal Dispute Resolution Procedure (**IDRP**). NHS BSA did not uphold Miss E's complaint. It said:-
 - The inflated estimate in the ABS was due to incorrect pay information provided to it by Miss E's previous employer.
 - The University Hospital ... NHS Foundation Trust had notified NHS Pensions that for the period 23 October 2017 to 3 November 2017 Miss E was earning £33.11 per hour, rather than the correct figure of £8.71 per hour. As a result, her salary was wrongly recorded as £64,751.61 instead of £17,039.90, which inflated her projected pension benefits.
 - Miss E should have noticed the discrepancy in her pay when she accessed the ABS.
13. Miss E remained dissatisfied with the decision and subsequently appealed.
14. On 23 June 2022, NHS BSA issued its stage two decision. NHS BSA partly upheld Miss E's complaint on the grounds that she had been provided with an incorrect estimate of retirement benefits on her ABS. NHS BSA said:-
 - Miss E's annual salary when she left NHS employment in 2017 was £17,039.90. As her NHS annual salary never exceeded £20,000, she should have noticed and queried the incorrect pay figure shown on the ABS.
 - It would not advise making purchases or payments in anticipation of receiving the amounts quoted on the ABS as the actual amounts due could not be confirmed until the application was processed.
 - The ABS included a warning that the figures were not guaranteed.
 - The benefits paid to Miss E were correct.

Summary of Miss E's position

15. Miss E submits:-

- She spent £2,000 more on a credit card based on the inaccurate pension benefits estimate on the ABS. She believed the PCLS indicated on the ABS would be sufficient to pay off her credit card bill.
- She would like some financial compensation as recognition of the distress caused by the error.

Summary of NHS BSA's position

16. NHS BSA submits:-

- The ABS contained an incorrect estimate of benefits due to incorrect pay information being provided to NHS Pensions by the employer.
- Miss E should have seen and queried the discrepancy in her pay on the ABS.
- The benefits shown on the ABS were not guaranteed. A disclaimer on the ABS stated this.

Adjudicator's Opinion

17. Miss E'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:-

- NHS BSA had agreed that the pension benefits information provided to Miss E in the ABS was incorrect, so there was no dispute that a problem had occurred. The effect of the error was to incorrectly inflate Miss E's projected pension benefits in the ABS. This amounted to maladministration.
- Miss E contended that the incorrect information in the ABS, which she viewed in September 2021, directly led to her extra spending on a credit card account between 10 November 2021 to 3 January 2022. She did not believe that she should be paid the full amount of her extra spending but should be compensated by NHS BSA for its error.
- The ABS overstated Miss E's estimated benefits by a multiple of 3.15, showing a PCLS of £8,733 instead of £2,771.41. Her projected pension benefits were overstated by the same factor, from £923.80 to £2,911 per year. Miss E had sent in statements showing she spent £3,425.42 on a credit card account in the four months after she viewed the ABS. She provided statements that she had not used this account between November 2019 and December 2020, and that the account was in credit on 10 November 2021. She said that she spent approximately

£2,000 of the £3,425.42 based on the ABS, which she intended to pay off using the PCLS shown in the ABS. She had not provided statements for the period 1 January 2021 to 9 November 2021 to evidence her spending on this account.

- On page four of the ABS, it said “check the amount of pensionable pay quoted is consistent with your current pay...If the figure is significantly different you should contact your employer.”
 - Miss E’s “Pay” figure shown in the ABS was nearly four times higher than her actual pay in her final year of work for the NHS. The erroneous pay figure was at the top of page two of the ABS, directly above her projected pension benefits.
 - In the Adjudicator’s view, while the error was not the fault of Miss E, given how clear the error was and the warning to check the pay figure was correct, it was reasonable to expect that Miss E should have noticed when she viewed the ABS that there was an error. Had she made enquiries about the ABS stating that her salary was significantly higher than it had ever been, in the Adjudicator’s opinion the mistake would have been identified and corrected. However, upon viewing the ABS, Miss E did not query the figures but notified NHS BSA of her wish to take her pension benefits.
 - Although Miss E relied on the representation in spending more than she usually would, in the Adjudicator’s opinion, it was not reasonable to do so. When notifying NHS BSA of her wish to retire, she should have pointed out the discrepancy in her pay and clarified her pension benefits.
 - It was therefore the Adjudicator’s view that Miss E’s claim for redress on the basis of negligent misstatement was unlikely to succeed and the Ombudsman would not uphold this aspect of the complaint.
 - The Adjudicator also investigated whether an estoppel, either by representation or convention, or a contract, could be established to hold NHS BSA to the incorrect statement. The Adjudicator considered that neither could be established.
 - The Adjudicator’s opinion was that Miss E’s complaint against NHS BSA should not be upheld.
18. Miss E did not accept the outcome of the Adjudicator’s Opinion, but otherwise made no further comments on the Opinion, and the complaint was passed to me to consider.

Ombudsman's decision

19. I acknowledge that Miss E is unhappy with the Adjudicator's view that her complaint should not be upheld. Nonetheless, I agree with the Adjudicator's reasoning as set out above in paragraph 17.
20. I do not uphold Miss E's complaint.

Camilla Barry

Deputy Pensions Ombudsman
26 March 2025