

## Ombudsman's Determination

Applicant	Dr N
Scheme	NHS Pension Scheme (the <b>Scheme</b> )
Respondents	(1) NHS Business Services Authority (the <b>NHSBSA</b> ) (2) NHS England (NHS England)

## Outcome

1. Dr N's complaint is upheld and to put matters right, NHSBSA and her previous employer, NHS England, should each pay Dr N £500. This is to compensate her for the significant distress and inconvenience caused through errors made by NHS England over a three year period, and NHSBSA's failure to notify her of the error.
2. My reasons for reaching this decision are explained in more detail below.

## Complaint summary

3. Dr N is unhappy that NHSBSA provided her with incorrect pension estimates. In particular, she is concerned that NHSBSA noted there was an error in her pension record which would ultimately reduce the actual level of benefits to which she was entitled. NHSBSA did not take steps to inform her of the discovery that her level of benefits would be reduced. The pension was subsequently put into payment at the lower level.
4. Dr N also complains of the error made by NHS England when an incorrect entry was made on her records. An inexperienced staff member incorrectly entered Dr N's locum earnings onto her locum post and duplicated the earnings on her principal General Practitioner (**GP**) post.

## Background information, including submissions from the parties

5. Dr N retired from her GP post in January 2015, and received a pension of £21,000 per annum and a lump sum of £62,000. She had received several pension estimates in the run up to her retirement. The pension estimate of August 2014 stated Dr N could expect to receive a pension of around £23,000 per annum and a lump sum of £69,000. The root cause of the error, which NHS England had admitted, was that an inexperienced member of staff incorrectly entered Dr N's locum earnings in respect of

her locum post and duplicated the same locum earnings with regard to her principal GP post.

6. Dr N submitted her retirement application form in October 2014, and cited her last date of employment stated as 3 January 2015. NHSBSA first discovered that inflated final salary figures had been used in the previous three estimates when it was calculating the final retirement benefits award.
7. NHSBSA notified NHS England of the error and it rectified the figures prior to the awards being finalised. NHSBSA noted on Dr N's record that her previous estimates were incorrect and that her actual award would be lower but NHSBSA failed to contact Dr N to notify her of the discovery, or of the impact the consequences would have on her award entitlement.
8. Dr N accepts she is in receipt of the correct level of pension to which she is entitled. But she complains that she was not informed of the mistake in good time and so she was not given sufficient opportunity to consider her alternative options. Dr N says she could have considered continuing on in her previous roles to enhance her true level of benefits but as a result of relying on the incorrect estimates, she resigned from her partnership and from the General Medical Council (**GMC**).
9. NHSBSA has paid Dr N £100 for the distress and inconvenience caused.
10. NHS England has not offered any compensation to Dr N although it has acknowledged human error caused the mistake.

## **Adjudicator's Opinion**

11. Dr N's complaint was considered by one of our Adjudicators who, in summary, concluded that:
  - It was clear maladministration on the part of NHS England for entering incorrect locum salary details which consequently meant that NHSBSA had an inaccurate record of Dr N's earnings over a three year period.
  - It was not maladministration on NHSBSA's part when it sent out the pension estimates in the lead up to Dr N's retirement because it did not know of the inflated figures used in the records. But it was maladministration for NHSBSA when it failed to communicate the error and the related consequences to Dr N when it discovered the mistake. NHSBSA put the lower level of pension benefits into payment without Dr N having prior knowledge that this would be the case.
  - In conclusion, the adjudicator felt that Dr N had lost the opportunity to consider alternative options because of the compounded maladministration by the NHS England and NHSBSA. Because of this, she considered that both NHSBSA and NHS England ought to make a payment of £500 each for the maladministration

identified. NHSBSA would only need to make a further payment of £400 because it had previously already paid £100 to Dr N.

12. After exchanges of correspondence, NHSBSA agreed to the adjudicator's Opinion.
13. NHS England has failed to make any comments in response to the Adjudicator's Opinion despite being given a time extension in order to do so.

### **Ombudsman's decision**

14. The complaint has been passed to me because NHS England failed to respond to the Adjudicator's Opinion on whether it agreed or disagreed with the recommendations made.
15. I agree with the Adjudicator's Opinion. I am satisfied from the evidence that NHSBSA failed to notify Dr N of the error before paying her a lower level of pension benefits than was set out in the estimate. Also that NHS England, as admitted, caused the error that led to Dr N being given an inflated estimate of the level of pension benefits she could expect to receive on retirement. I find that this resulted in Dr N suffering significant distress and inconvenience.
16. Therefore, I partly uphold Dr N's complaint against NHSBSA and NHS England.

### **Directions**

17. Within 21 days of the date of this Determination,
  1. NHSBSA, in addition to the £100 payment already made, to pay Dr N £400 compensation; and
  2. NHS England to pay Dr N £500 compensation.

**Anthony Arter**

Pensions Ombudsman

21 September 2016