

Ombudsman's Determination

Applicant	Mrs S
Scheme	Teachers' Pension Scheme (the Scheme)
Respondents	North Yorkshire County Council (NYCC) Teachers' Pensions (TP)

Outcome

1. I do not uphold Mrs S' complaint and no further action is required by NYCC or TP.
2. My reasons for reaching this decision are explained in more detail below.

Complaint summary

3. Mrs S is unhappy because her reckonable service for pension benefits was reported by NYCC incorrectly, and subsequently recorded incorrectly by TP, several times. As a result of this, she has been overpaid £5,585.13.
4. NYCC was Mrs S' employer, and TP is the administrator for the Scheme.
5. Mrs S is not disputing the overpayment itself and she is prepared to repay this. However, she believes that the way the matter has been handled is appalling and that she has suffered significant distress and inconvenience as a result. Furthermore, she states she had to spend a substantial amount of time dealing with this matter, and ensuring her service has been recorded correctly.

Background information, including submissions from the parties

6. On 5 August 2015, Mrs S' pension benefits were calculated and provided to her, in advance of her retirement at the end of the month. Upon receiving the figures, she wanted to check her record was correct. However, she had held multiple part time positions between 1993 and 2003, and she found it difficult to check her records were correct for this period. As a result, she contacted TP and asked it to check her reckonable service for this period.

7. Mrs S was referred to NYCC, who sent her a form to fill out regarding her service. She returned this on 10 August 2015. However, on 21 August 2015, Mrs S says NYCC requested details she'd already provided. She re-sent her details on 27 August 2015, and retired on 31 August 2015.
8. On 1 September 2015, Mrs S received a lump sum from TP. At this time she also went away for three weeks.
9. On 9 September 2015, NYCC provided TP with the correct details for Mrs S' service for the period 1993 to 2003. However, it used a misleading code and as a result TP did not recognise that this record was to replace the existing record, rather than add to it. As a result, the period of service which Mrs S had queried was effectively duplicated for the period in question.
10. On 15 September 2015, whilst Mrs S was still away, an additional lump sum was paid into her account. This was the overpayment of £5,585.13.
11. On 28 September 2015, Mrs S returned from holiday, and noticed her record appeared incorrect. In particular, her reckonable service for the period 1993-2003 now indicated she had worked over eight years in a seven year period. Consequently, her pension benefits were higher than they ought to be, because her record indicated she had accrued more benefits than she had.
12. On the same day, Mrs S contacted NYCC, and was referred to TP. After explaining her concerns with TP, Mrs S states she was told that TP would need to contact NYCC.
13. On 29 September 2015, TP rang Mrs S and explained that an error with the codes it had received from NYCC meant some of her service had been duplicated. The next day, it received confirmation of this from NYCC and amended Mrs S' service record. However, it was amended to reflect what it had originally been in August 2015 and Mrs S felt there were still inaccuracies.
14. The evidence indicates that TP promised Mrs S a callback on 30 September 2015, but did not contact her as it was still waiting for a response from NYCC. Mrs S contacted TP herself but was unable to reach an appropriate person to speak to.
15. On 1 October 2015, TP contacted Mrs S to discuss repayment of the overpayment, and Mrs S raised her concerns regarding the amended record still being incorrect. Mrs S asked for a callback the next day, but again did not receive one. The evidence indicates that TP was again still investigating the matter, although there is no evidence as to why it did not update Mrs S.
16. On 4 October 2015, Mrs S states that her service record disappeared altogether, and the next day she raised a complaint with both NYCC and TP.

17. On 8 October 2015, NYCC responded to Mrs S' complaint. It apologised for the error but confirmed it had not received the contact from TP that Mrs S believed it had. As a result, NYCC stated it was not aware of any further issues. Mrs S responded the same day to highlight that she had been told, by a representative at TP, that TP had contacted NYCC. Mrs S states that she knew NYCC had received an email from TP on 29 September 2015, regarding this issue, and that NYCC had responded to it on 30 September 2015. Mrs S stated she had spoken to an NYCC representative who had confirmed this, and as a result she felt one of the parties was lying to her.
18. On 9 October 2015, NYCC wrote to Mrs S again. In particular, it confirmed that working practices were being reviewed as a result of the concerns she had raised. It also said that the representative Mrs S had spoken to had not been aware of the correspondence between NYCC and TP on 29 and 30 September 2015. As a result, NYCC had provided information based on what the representative knew at the time, but it confirmed that TP had contacted it as Mrs S had said. As result, NYCC said her record had been revised and her service record would be reviewed in full. Mrs S remained unhappy. In particular she highlighted that neither NYCC nor TP was taking responsibility for anything.
19. On 12 October 2015, TP wrote to Mrs S saying the overpayment needed to be recovered, and on 15 October 2015 it provided Mrs S with details of how to escalate her complaint. On 2 and 11 November 2015, Mrs S escalated her complaint with NYCC and TP respectively.
20. On 9 December 2015, TP issued a full response to Mrs S' complaint. It confirmed her reckonable service was now correct and apologised for the problems Mrs S had experienced in contacting it.
21. On 18 December 2015, NYCC issued its full response to Mrs S complaint. It explained how the error had happened and confirmed that it had reviewed her records again. As a result, it had found a further eight anomalies in her reported service, but confirmed these did not impact her overall reckonable service.
22. On 5 January 2016, Mrs S appealed both NYCC's and TP's responses to her complaint.
23. TP escalated Mrs S' complaint to the Department of Education, (**DofE**), who deal with appeals in its complaint resolution process. On 22 January 2016, DofE wrote to Mrs S and confirmed that it agreed with TP's response to her complaint.
24. On 25 January 2016, NYCC responded to Mrs S' appeal and confirmed that the administrative error sat between itself and TP.
25. Mrs S has highlighted that, if it were not for her spotting the errors with her pensionable service, she would have received incorrect benefits. She is concerned that, but for her own intervention, she would have received the wrong income. She believes this is a serious matter and that TP and NYCC need to do more to ensure

this does not happen. Mrs S states that her honesty and integrity ought to be taken into account.

26. Lastly, Mrs S has pointed out that it is concerning NYCC found a further eight anomalies with her service when it reviewed her records.
27. Mrs S has not provided evidence of any financial loss she suffered as a result of contacting NYCC and TP. However, she states she incurred costs through telephone calls and posting letters by recorded delivery. She also feels she ought to be compensated for the distress she has suffered.

Adjudicator's Opinion

28. Mrs S' complaint was considered by one of our Adjudicators who concluded that no further action was required by NYCC or TP. The Adjudicator's findings are summarised briefly below:
 - The Adjudicator agreed that there had been maladministration. However, she was not satisfied that Mrs S had suffered any loss or injustice as a result.
 - The Adjudicator highlighted that Mrs S noticed the error before she started receiving her pension. As a result, she did not receive an incorrect income, and she knew the lump sum may be higher than it ought to be from the outset. Therefore, Mrs S did not spend any benefits she was not entitled to, and she has not suffered a financial loss or loss of expectation. The Adjudicator did, however, commend Mrs S for her honesty and integrity.
 - Furthermore, the Adjudicator appreciated that Mrs S had suffered significant stress. However, the Adjudicator did not feel NYCC or TP were responsible. In particular, the Adjudicator noted that NYCC and TP had dealt with the matter within a reasonable timeframe, and had not acted in a way that would warrant an award for non-financial loss on this occasion.
 - In clarifying her position, the Adjudicator highlighted that our Office does not formally recommend awards for non-financial loss below £500. The Adjudicator did not feel £500 or more was warranted on this occasion, and as such she recommended NYCC and TP need not do anything further.
29. Mrs S did not accept the Adjudicator's Opinion and the complaint was passed to me to consider. Mrs S provided her further comments which do not change the outcome. I agree with the Adjudicator's Opinion, summarised above, and I will only respond to the key points made by Mrs S for completeness.
30. In particular, Mrs S has emphasised that there has been maladministration but there appears to be no consequences for NYCC or TP. Mrs S also felt that the sequence of events, as set out by the Adjudicator in her Opinion, was inaccurate.

Ombudsman's decision

31. Firstly, Mrs S' comments in relation to the sequence of events have been reviewed carefully, and I trust my summary of the background to this matter now fits with her recollection of events. In any event, it should be noted that the background above is based on the evidence available to me.
32. I find that there has been maladministration in this instance and the respondents have agreed that it involved errors by both of them. Mrs S has also done everything necessary to bring those errors to their attention and have them resolved. However I will not make an award of compensation purely because a pension scheme or provider has committed an error amounting to maladministration. I will consider every case on the facts as they present and will uphold a complaint if it has resulted in direct financial loss or other injustice which has not been remedied when the complaint is brought to the Ombudsman. In this case I am not persuaded that there was unremedied injustice.
33. I will consider any financial losses which can be shown to flow directly from the maladministration including any necessary costs of having it put right. However, the burden of proving financial loss is on the complainant and in this case I have seen no evidence of losses directly incurred.
34. I am persuaded that Mrs S will have suffered some level of stress and inconvenience. For a start, she had to spend time on the telephone informing NYCC and TP that her membership record was incorrect. She would also have reasonably spent some time following matters up, and I am aware that she was promised one or two call-backs which she did not receive. However, she has also received proper replies, a full enquiry into her service history, and apologies for the errors which have occurred. Although Mrs S was always aware that the overpayment would have to be repaid, and was not misled about that, TP has also suspended recovery of the overpayment while her complaint was resolved and indicated a willingness to consider a repayment plan. She has therefore had use of the money in addition to an apology. I consider that in this case these actions were sufficient to address the injustice of her having to pursue the reconciliation of her scheme records.
35. Mrs S has indicated that she was told different things by NYCC and TP, and she was caused a great deal of frustration by the fact that neither party was accepting responsibility for maladministration. She also believes the conflicting information shows that she was lied to. However, while I do not doubt Mrs S' frustration, I do not agree that there was a reluctance to accept responsibility. I believe NYCC and TP have provided reasonable explanations as to why Mrs S received conflicting information, and I do not consider they have done anything substantially wrong in their attempts to explain why the error happened.

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36. Overall, I do not believe NYCC or TP handled the resolution of Mrs S' service history record or her subsequent complaint so poorly as to cause injustice to Mrs S which they have not already remedied. Therefore I do not uphold the complaint.

Karen Johnston

Deputy Pensions Ombudsman
2 August 2017