

## Ombudsman's Determination

Applicant	Mr Y
Scheme	NHS Pension Scheme (the <b>Scheme</b> )
Respondents	NHS Business Services Authority ( <b>NHSBSA</b> )

## Outcome

1. I do not uphold Mr Y's complaint and no further action is required by NHSBSA.
2. My reasons for reaching this decision are explained in more detail below.

## Complaint summary

3. Mr Y was provided with incorrect estimates of his pension benefits on 29 August 2012 and 12 January 2014. These estimates indicated a significant increase in his benefits, compared to those shown on 13 August 2006 and 12 December 2012.
4. Mr Y says that he was not aware of the discrepancy and he relied on the incorrect estimates when he decided to retire in March 2015. He considers his financial loss to be significant as he is receiving about £3,500 a year less than he expected, and his cash lump sum was reduced by about £10,000.
5. NHSBSA has acknowledged mistakes were made in the August 2012 and January 2014 statements. It has offered compensation of £250.

## Background information, including submissions from the parties

6. Mr Y is a deferred member of the Scheme.
7. On 13 August 2006, Mr Y received an estimate of his pension benefits. This projected that, on retirement, he may receive a pension of £9,857 a year and a lump sum of £29,573.
8. On 29 August 2012, NHSBSA sent an estimate of pension benefits to Mr Y. The estimate projected a pension of £15,419.21 a year and a lump sum of £46,257.66. Mr Y's financial adviser then asked NHSBSA for a transfer value. On 12 December 2012, NHSBSA sent a statement projecting a pension of £12,083.66 a year and a lump sum of £36,250.99. This was a notable decrease on the previous estimate.

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9. Following another request, NHSBSA sent another estimate on 12 January 2014. This projected a pension of £15,759.09 a year and a lump sum of £47,277.29.
10. In November 2014, based on the estimates received, Mr Y decided to retire. He notified his employer that he would be leaving at the end of March 2015. Mr Y applied for his pension on 21 March 2015. He was informed on 27 March 2015 that he would receive a pension of £12,227 and a lump sum of £36,682.
11. Mr Y complained to NHSBSA but the complaint was not upheld. NHSBSA said that it incorrectly calculated the cost of living increases, and that led to the errors in the estimates of 29 August 2012 and 14 January 2014. It apologised for the errors and offered compensation of £250 for the distress and inconvenience caused.
12. Mr Y turned down the offer and brought his complaint to us. Mr Y says that he is very worried about his financial situation because he was expecting a higher pension.

### **Adjudicator's Opinion**

13. Mr Y's complaint was considered by one of our Adjudicators who concluded that no further action was required by NHSBSA. The Adjudicator's findings are summarised briefly below:
  - Mr Y would have been expected to question the conflicting estimates he received.
  - It is more likely than not that the December 2012 estimate sent to Mr Y's financial adviser would have been shared with Mr Y.
  - There was no evidence that Mr Y would have made a different decision if he had been aware of the correct estimate.
  - The pension estimates were not guaranteed and it would have been prudent for Mr Y to contact the Scheme for a more recent estimate before making his decision to retire.
  - The offer of £250 is sufficient to compensate Mr Y for the distress and inconvenience caused to him.
14. Mr Y did not accept the Adjudicator's Opinion and the complaint was passed to me to consider. He provided his further comments which do not change the outcome. I agree with the Adjudicator's Opinion, summarised above, and I will therefore only respond to the key points made by Mr Y for completeness.

### **Ombudsman's decision**

15. The basic principle for negligent misstatement (in the absence of any additional legal claim) is that a scheme is not bound by the incorrect information, e.g. retirement quotes, transfer values or early retirement. A member is only entitled to receive the benefits provided for under the scheme rules, i.e. those based on correct information

accurately reflecting the scheme rules. Therefore, Mr Y is receiving the correct benefits as set out by NHSBSA.

16. Mr Y adds that he called NHSBSA, on 31 December 2013, to ask for an estimate of his pension, which he received on 14 January 2014. He says that the estimate sent to his IFA should be discarded. The file notes from NHSBSA indicate that Mr Y called in April and August 2013, and was told that 12 months had not passed since the previous estimate request. As the previous estimate request was sent to his IFA in November 2012, this would indicate that Mr Y would have been aware that it had been sent to his IFA. Even if that estimate was not passed to Mr Y it is sufficient that he was aware of it.
17. Mr Y also says that NHSBSA should compensate him sufficiently because the errors have affected him and his well-being. However, Mr Y has not provided any evidence in support of any detriment that he may have experienced. Moreover, Mr Y is unwilling to provide any information regarding his current situation and how he has mitigated any loss. Without this, I am unable to support an increase to the compensation that he has already offered.
18. Therefore, I do not uphold Mr Y's complaint.

**Anthony Arter**

Pensions Ombudsman  
12 August 2016