

Ombudsman's Determination

Applicant	Ms R
Scheme	NHS Pension Scheme (the Scheme)
Respondents	NHS Business Services Authority (NHS BSA)

Outcome

1. I do not uphold Ms R's complaint and no further action is required by NHS Business Services Authority.
2. My reasons for reaching this decision are explained in more detail below.

Complaint summary

3. Ms R's complaint against NHS BSA is about the incorrect information she received with regard to her pension entitlement and on which she based her decision to retire.

Background information, including submissions from the parties

4. NHS BSA provided an estimate on 23 January 2014, which said Ms R would receive an estimated annual pension of £8,113.37 and a lump sum of £34,340.11. If she chose to exchange the maximum amount of annual pension to increase her lump sum, she would be entitled to an annual pension of £6,519.67 and she would receive a lump sum of £43,464.49. It said the estimate was based on a salary of £31,449.6
5. On 24 February 2015, Ms R requested an additional estimate (**the 2015 estimate**), which estimated her pension was £27,216.98 per annum and she would receive a lump sum of £81,650.94. If she elected to exchange the maximum amount of annual pension to increase her lump sum she would be entitled to an annual pension of £21,870.79 and she would receive a lump sum of £145,805.25. The estimate said it was based on a salary of £104,323.42.
6. Ms R has said it was on the basis of the 2015 estimate that she chose to retire and leave her employment. Upon finding out that the 2015 estimate was incorrect, Ms R was unable to return to her previous employment and has had to seek new employment to supplement her income.

Adjudicator's Opinion

7. Ms R'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 briefly below:
 - The provision of incorrect information does not, of itself, give an entitlement to the higher benefit unless Ms R had reasonably relied on the incorrect information and acted to her detriment based on it.
 - As the pension had risen significantly in one year and differed greatly from all previous estimates, it was not reasonable for Ms R to have relied on the information without question. Even without considering the rise in estimated pension, the salary detailed on the 2015 estimate was clearly incorrect and should have made Ms R aware there had been an error.
8. Ms R did not accept the Adjudicator's Opinion and the complaint was passed to me to consider. Ms R provided her 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 Ms R for completeness.

Ombudsman's decision

9. Ms R has said that she based her decision to retire on the incorrect information provided in the 2015 estimate and that if the correct information had been provided; she would have made different decisions. Before I can consider whether Ms R acted to her detriment based on the misinformation, I must be satisfied that it was reasonable for her to rely on that information. Ms R has commented that a decision she should have known the information was incorrect would just be an opinion. Whilst she is correct as there is no way of definitively proving a person's state of mind, this means the only way I can make a decision on this complaint is by giving my reasoned and impartial opinion on what I think is reasonable in the circumstances.
10. As the pension amounts had more than tripled since the last estimate provided to Ms R just one year previously, I cannot hold that it was reasonable for her to rely on the information without question. Ms R has said she was not aware of the previous calculations, however an estimate was sent to Ms R on 23 January 2014.
11. Ms R has said she is not a pensions expert and it should not be assumed that she should know about the Scheme and its rules, or how her pension is calculated. I appreciate that Ms R would not have in-depth knowledge about the Scheme and how her benefits should be calculated, and as such I would not hold her to that standard. However, even without pensions knowledge Ms R could have checked her personal details, such as her salary, and checked that the amounts were in line with previous estimates. The 2015 estimate said Ms R had a salary of £104,323.42; Ms R does not have to be a pensions expert to have known the figure was incorrect, and as I have said in paragraph 7 above, the pension amounts had increased disproportionately.

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Therefore, I believe Ms R was in a position to judge that it was unreasonable to rely on the information provided.

12. Ms R would like to be compensated for the error that NHS BSA made in issuing in the incorrect 2015 estimate. I am able to award modest payments for cases where there has been significant distress and inconvenience caused. In this case as I do not think it was reasonable for Ms R to have relied on the 2015 estimate, I cannot hold that there was a loss of expectation caused, or that NHS BSA is responsible for the distress caused by Ms R's decision to retire based on the incorrect figures.
13. Therefore, I do not uphold Ms R's complaint.

Anthony Arter

Pensions Ombudsman
8 July 2016