

Ombudsman's Determination

Applicant	Dr E
Scheme	Teachers' Pension Scheme (TPS)
Respondent	Plymouth University

Outcome

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

Complaint summary

3. Dr E is complaining that Plymouth University incorrectly recorded her service in the TPS and, as a result, her benefits at retirement were less than she expected. Dr E says she made the decision to retire based on the information Plymouth University had provided prior to her selected retirement date in March 2016.

Background information, including submissions from the parties

4. During her employment with Plymouth University, Dr E was a member of the TPS, the Local Government Pension Scheme (which was transferred into the TPS in 2006), and the NHS Pension Scheme. From the 1 July 1997, she had accrued pensionable service with the TPS and from 2006 until she left employment, she was in a full time role eligible for TPS membership (she was not accruing service in either of the other pension schemes).
5. As part of this office's investigation into her complaint, Dr E has provided copies of her annual TPS benefit statements between 2008 and 2016. In each statement except 2016, her service history between 1 April 1999 and 31 March 2002 is recorded as part time, 1 year and 165 days.
6. In the annual statements issued between 2008 and 2010, her service history from 1 April 2006 is incorrectly recorded (as her service from that period was continuous and full time, while her annual statement recorded a gap of two months). In October 2010 Dr E queried this with Plymouth University and it was rectified by the time she

received her next annual statement. Her service history prior to 2006 was not reviewed.

7. In 2013, Dr E queried her service history in the NHS Pension Scheme with Plymouth University. She did this by comparing her payslips to her NHS Pension Scheme statements. As a result of this query, it was discovered that Dr E had service missing from the NHS Pension Scheme and this was rectified in January 2014. Neither Dr E nor Plymouth University reviewed her TPS service history and Plymouth University have said that the review of one scheme would not have automatically triggered a review of the service history of the other.

8. On 20 July 2015, Dr E met with a Plymouth University representative to discuss possible early retirement. Prior to this meeting, Dr E was provided with "a member print" of her service. This meeting was a consequence of an earlier email from Dr E dated 13 July 2015 where she said:

"You may recall my husband ... has been unwell which culminated in him recently undergoing a Coronary Bypass. This has caused me to re-evaluate life and I have decided to retire in February 2016 to spend more time with him."

9. On 7 September 2015, Dr E emailed Plymouth University:

"I have decided definitely to go in March 2016 as I feel it is the right decision for us as a family. Therefore I wondered if at all possible you could give me a pension prediction for 2 scenarios or do I need to contact TPS directly; the scenarios are as follows:

If I retire on 31st March 2016 and take the annual pension and lump sum from that date

or

If I retire 31st March 2016 but do not draw down my pension until 29 December 2016 (my 60th birthday) what would my annual pension and lump sum be?

We would like to look at the forecast to make a decision whether it is financially worthwhile not drawing my pension until I am 60 compared to taking it earlier."

10. Plymouth University responded by email on 8 September 2015 with estimated figures and advised that Dr E should use the TPS online calculator or contact Teachers' Pensions directly for an estimate.

11. On 23 November 2015, Dr E responded to Plymouth University via email:

"After much thought and consideration I have decided to retire on 31st March 2016. ... looked at the figures you very kindly sent and what I would gain from staying on until December 2016 my 60th birthday was minimal I would only start losing money when I am 80 years old!"

12. Following this, Dr E resigned from her post with an early retirement date of 31 March 2016. Dr E submitted the relevant forms to apply for her TPS benefits in February 2016. Following this, correspondence ensued between Teachers' Pensions and Plymouth University and it was discovered that Dr E's service history in the TPS was incorrectly recorded. Dr E was made aware of the problem on 17 March 2016. Dr E subsequently requested to withdraw her resignation, but, unfortunately, this was no longer possible.
13. Following this, Dr E proceeded to retire, on benefits that were less than she expected, from 31 March 2016. She is claiming that, as a result of having to retire on a lower pension and lump sum, her annual pension is approximately £1,000 less and her lump sum is 17% less.
14. Dr E complained to Plymouth University, who did not uphold her complaint. It agrees that it incorrectly recorded her NHS Pension Scheme service history as part of Dr E's TPS service history (although, as part of its investigation, it said it could not be totally sure whether all of the error lies with them or Teachers' Pensions). This meant that, leading up to her retirement, Dr E was informed that for the period between 1999 and 2005 she had 913 days service in the TPS, when in fact her actual period of service was 112 days (a difference in total service of 2 years and 71 days).
15. However, it did not uphold the complaint on the grounds that it believed Dr E had the knowledge to have questioned her service record earlier. This decision was based on the fact that Dr E had previously questioned her NHS Pension Scheme service using payslips from the relevant period:

"You kindly sent us your historic payslips to support your pension query and these give a fairly complete record of your pay between 1999 and 2003. I see that for the pension year 2001-02, your annual TPS pensionable income was £27.00 and your total employee contribution paid to the TPS was £1.64. However, for the same pension year, your TPS service was reported as 279 days on the original benefit statement, which is out of proportion considering your pension income and clearly incorrect."
16. Plymouth University did offer Dr E £700 in recognition of the non-financial loss she had suffered as a result of the incorrect information being given in the lead up to her retirement.
17. Following Plymouth University's rejection of her complaint, Dr E made an application to this office.

Adjudicator's Opinion

18. Dr E's complaint was considered by one of our Adjudicators who concluded that no further action was required by Plymouth University. The Adjudicator's findings are summarised briefly below.

- Dr E is receiving her correct entitlement from the TPS and this is the correct legal position. Plymouth University have offered £700 in recognition of her non-financial loss, which the Adjudicator felt was reasonable.
 - The Adjudicator considered whether Dr E had relied on the previous estimates of her benefits to her detriment. The Adjudicator's opinion was to agree with Plymouth University that Dr E ought to have known that her TPS service history was incorrect as she had access to payslips and annual statements in order to check the information.
 - The Adjudicator felt that Dr E had not taken all reasonable steps to mitigate her loss as no evidence had been submitted to show that she was seeking further employment and that it was still possible to renew her professional qualification.
 - The Adjudicator also felt, based on the evidence submitted, that, on the balance of probabilities it was likely Dr E would have made the same choice in the same circumstances given the emails she sent to Plymouth University with regard to her husband's ill health.
19. Dr E disagreed with the Adjudicator's Opinion and submitted the following points (in summary):-
- In relation to whether Dr E ought to have known about the error, she says:
"I find it ironic that the fact that I kept my payslips has been used against me. Regardless, I was able to spot the errors in the NHS scheme only because I had received a full and detailed service history which very clearly identified exact working hours for each year. With the TPS the annual statement, which I can only track back to 2008, the history was in blocks of years with no further detail. For the period in question, I had numerous contracts and varied working patterns, including a year away in 2002-2003 which was correctly recorded, so on the one hand I could not have conducted the same analysis as I did with the NHS and at the same time the error in the TPS was not at all obvious, unlike the NHS and later TPS ones."
 - Dr E provided further information in relation to her attempts to mitigate her loss, including evidence of steps she had taken to find employment and the obstacles to this (including age and location).
 - Dr E also provided further information in relation to her husband's health and her view that this was not the sole reason for deciding to retire early. The financial implications were also a priority.
20. As Dr E did not accept the Adjudicator's Opinion, the complaint was passed to me to consider. Dr E has 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 Dr E for completeness.

Ombudsman's decision

21. I acknowledge that comments Dr E has raised in relation to her steps to mitigate her loss (and the impediments to this) and the reason she made the decision to retire, including the additional information she has provided in relation to her husband's health and agree, in the whole, that these are reasonable.
22. However, the information relating to whether or not she ought to have known of the error is compelling and for this reason I cannot uphold Dr E's complaint.
23. Dr E has said that her employment with Plymouth University over the years has been complex and the TPS statements she received did not provide adequate information for her to be able to assess the situation easily. I disagree.
24. Dr E has provided payslips between 1999 and 2004 and TPS annual statements between 2008 and 2016. All but the 2016 statement show that between 1 April 1999 and 31 March 2002 her service was 1 year and 165 days. However, looking at the same period her payslips (which she reviewed in detail when raising her complaint in relation to the NHS Pension Scheme) show the following:

Date	TPS employee contribution	Hours worked
23 July 1999	£197.53	3
25 January 2000	£4.77	3
25 February 2000	£1.59	1
24 March 2000	£4.77	3
25 April 2000	£4.77	3
25 March 2000	£4.77	28
23 June 2000	£39.77	0
25 July 2000	£25.45	16
25 June 2001	£1.64	1
Total days worked = 9 days	Total contributions = £285.06	Total hours worked = 58 hours

25. In the same period, Dr E's main employment with Plymouth University (at a rate of $\frac{3}{4}$ of a full time employee) was as a research nurse (and member of the NHS Pension Scheme) and also an ad hoc lecturer (eligible for TPS membership).

26. It is not unreasonable for Dr E to have reviewed this information when she raised previous issues with Plymouth University with regard to her membership of both the NHS and Teachers' pension schemes, especially when she looked at her NHS service in detail in 2013. It is clear that her payslips do not support the level of service shown on her annual benefit statements. Regardless of whether or not those statements show a detailed breakdown of her working hours, it is easy to see that the amount of service and contributions on her payslips are well below that shown on her annual benefit statements.
27. When considering whether Dr E relied on the information she received prior to retirement to her detriment, I consider that it is reasonable to assume that she ought to have known of the error. I agree with Plymouth University that Dr E had the information which would have enabled her to review her position, and previous questioning of her service shows that she is capable of doing so, I do not uphold her complaint.
28. I also agree that the offer of £700 in recognition of the non-financial loss is more than reasonable and therefore I do not direct that Plymouth University increase this offer.

Anthony Arter

Pensions Ombudsman
10 February 2017