

Ombudsman's Determination

Applicant	Mrs N
Scheme	Teachers' Pension Scheme (the Scheme)
Respondent	Teachers' Pensions (TP)

Outcome

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

Complaint summary

3. Mrs N is complaining that TP did not provide sufficient information when she reached age 60. She made the decision not to take her benefit and continued working, which she believes has disadvantaged her.

Background information, including submissions from the parties

4. In 2008, Mrs N turned 60 years of age, and was eligible to start drawing her benefits from the Scheme. She decided she wanted to continue working, but she wanted to make sure this would not have a negative impact on her pension. She said she contacted TP on 28 January 2008, and was provided with information that led her to believe that if she continued working and contributing to her pension she would not lose out on the pension that she would be claiming at the time.
5. In April 2016, Mrs N contacted TP and said that her pension came into payment in 2015 at a rate of £5,960.77 per annum. She complained that TP had not provided a clear statement of how her benefits were being calculated. She requested that TP provide her with the exact calculations that were used when calculating her benefits.
6. On 10 May 2016, TP wrote to Mrs N and said her benefits were being calculated using pensionable service of 14 years and 7 days, and a salary average of £38,088.66, which provided an annual pension from 1 August 2015 of £6,660.17.
7. Mrs N wrote to TP on 17 May 2016, she said that TP had not explained why her pension had not been increased for the seven years she had opted not to draw her pension. She said she would have started drawing her pension at age 60, if she had

known there would be no benefit in her not taking her benefits until 2015. Mrs N also said that she had deferred taking her state pension and this had received increases, she therefore considered that TP were not doing their calculations correctly.

8. On 2 June 2016, TP wrote to Mrs N. It said her benefits were calculated at the date she left teaching employment on 31 July 2015. It said if she has left pensionable employment prior to that date her benefits would have been lower. TP said although she could have retired at age 60, in 2008, as she chose to continue working and pay into the Scheme her benefits could only be calculated and paid when she stopped working.
9. Mrs N believes her pension from the Scheme should be enhanced for each year that she deferred taking it in the same way that her state pension has been treated. TP explained that state benefits are calculated differently and therefore Mrs N could not make a comparison between her state benefits and her benefits from the Scheme.
10. Mrs N raised her complaint through TP's internal dispute resolution procedure. Mrs N remained dissatisfied and brought her complaint to the Pensions Ombudsman.

Adjudicator's Opinion

11. Mrs N's complaint was considered by one of our Adjudicators who concluded that no further action was required by TP. The Adjudicator's findings are summarised briefly below:
 - Mrs N says she was provided with information over the telephone in 2008, which led her to believe she would receive enhanced pension payments if she chose to take her benefits at a later date than her 60th birthday. However, there was no recording of the telephone conversation.
 - Mrs N believed that TP should have explicitly told her in 2008 of the implication that continuing to work would have on her benefits. She believed her pension would be enhanced from 2008 to 2015, regardless of whether she continued to work. TP only explained in 2016, when her position was irreversible, that her pension would not receive enhancements because she had continued to work. It explained that her benefits would be higher as they would be calculated at the date she left pensionable employment but they would not be further enhanced to take account of the period of deferral.
 - TP has not done anything wrong in how it was calculating Mrs N's benefits. TP are bound to pay pensions in line with the Scheme regulations, which is what it is doing.
 - It was ultimately for Mrs N to make the decision whether to continue working, as a result she is receiving higher pension benefits as she worked for longer, but she is not entitled to receive payment of the benefits she might have received had she taken her benefits from her 60th birthday.

12. Mrs N did not accept the Adjudicator's Opinion and raised the following points:
- She would have started taking her pension at age 60, and continued working had she known her pension benefits would not be enhanced. Therefore, she would have had the benefit of her pension and her salary.
 - The telephone conversation Mrs N had with TP led her to believe her pension would be enhanced, she believes as TP say nothing to the contrary it implies that it agrees with her recollection of the call.
 - Mrs N says it seems wrong that two government pension schemes can be run differently. For example her state pension received enhancements yet her benefits under the Scheme did not.
 - TP said that Mrs N should have sought advice from an independent financial adviser (**IFA**) if she was unsure, but Mrs N believes that TP should provide clear and easy to understand information without the need for an IFA.
13. The complaint was passed to me to consider. I agree with the Adjudicator's Opinion, summarised above, and I will therefore only respond to the key points made by Mrs N for completeness.

Ombudsman's decision

14. Mrs N has complained that her benefits under the Scheme will not receive enhancements. Furthermore, she said that TP provided her with information that led her to believe her benefits would be enhanced, or to put it another way, that she would receive the 'undrawn' benefits when her pension later came into payment.
15. Mrs N says she has suffered a financial loss because, had she known her pension benefits would not be enhanced as a result of deferring payment, she would have started taking her benefits at age 60, as well as continuing to work as a supply teacher. Mrs N may well have decided to take such action but the regulations that govern the Scheme provide that if a person continues to work, or is re-employed, whilst receiving pension benefits from the Scheme the combined benefits and salary together must not exceed the level of the salary at the date of retirement (salary of reference). If the combined amount is higher than the salary of reference then the pension benefits are abated accordingly. Mrs N has not therefore suffered a loss as she was never permitted to work as a supply teacher and receive her full pension benefits without abatement.
16. Mrs N has said that as TP do not dispute her recollection of the telephone conversation she had in 2008 that it must agree with her, otherwise it would disagree with what she says. TP say it has no evidence of the telephone conversation and in my view, it is not unreasonable for TP not to comment on what Mrs N has said. It does not follow that TP's lack of comment implies agreement with Mrs N's recollection.

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17. Mrs N considers that TP had a compelling obligation and duty of care to highlight the differences between the Scheme and the state scheme. I disagree, state benefits and the benefits provided by the Scheme are completely separate. The provisions of each are set down in different pieces of legislation. I am only able to consider whether there has been maladministration in relation to the Scheme not following the legislation correctly. In this case I am satisfied that TP are complying with the legislation that governs the Scheme.
18. Finally, Mrs N has said that she believes TP should provide clear information relating to the Scheme, without the need to seek advice from an IFA. I agree with this but I consider that TP have provided clear details in its literature and on its website etc. There is no obligation for TP to highlight the differences between the provisions of the Scheme and the state scheme
19. It was Mrs N's choice to defer taking her benefits and continue working, I do not consider TP have acted incorrectly.
20. Therefore, I do not uphold Mrs N's complaint.

Karen Johnston

Deputy Pensions Ombudsman
1 June 2017