

Ombudsman's Determination

Applicant	Mrs T
Scheme	NHS Pension Scheme (the Scheme)
Respondent	NHS Business Services Authority (NHS BSA)

Outcome

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

Complaint summary

3. Mrs T's complaint is that her pension benefits had been overstated, because the value of her transferred-in membership credit from the Local Government Pension Scheme (**LGPS**) was incorrectly recorded by NHS BSA for a number of years.

Background information, including submissions from the parties

4. Mrs T was initially a member of the Scheme from 23 April 1995 to 15 June 1996. She decided to take a refund of contributions for this period and this was paid to her on 10 April 1997.
5. From 17 June 1996 to 15 October 2006, Mrs T was a member of the LGPS. She was employed part-time for this period, and based on the hours she actually worked, the LGPS confirmed that her accrued membership was 6 years 154 days. If Mrs T had left her LGPS benefits deferred, then the benefits would have been payable on her 62nd birthday.
6. Mrs T re-joined the Scheme on 16 October 2006 and she applied for a transfer of her LGPS benefits. On 6 July 2007, NHS BSA sent a transfer quotation to Mrs T informing her that the proposed transfer of LGPS benefits would purchase 5 years 274 days of membership in the Scheme. NHS BSA's letter included the following:-

"Your previous pension provider has offered to pay a transfer value of £21,816.80. We estimate this will buy you 5 years and 274 days membership in the NHS Scheme...If you decide to go ahead with the transfer, this membership will be added to any other NHS Scheme membership you have and count for

benefits...Please think carefully about this transfer offer...Decide what you want to do and tick the appropriate box on the enclosed Option Form FA163.”

7. Mrs T decided to proceed with the transfer of her LGPS benefits into the Scheme. On 10 October 2007, NHS BSA wrote to Mrs T confirming that the transfer had been completed. The letter said:

“The transfer of your pension rights from the [LGPS] has now been completed as you requested. You have been credited with 5 years 274 days membership. This will be added to your current membership and earn you a pension, a lump sum retiring allowance and spouse’s benefits as set out in the NHS Pension Scheme booklet, Your Guide.”

8. The transferred-in membership credit of 5 years 274 days was lower than her LGPS membership of 6 years 154 days. This was based on Club Transfer rules, which allow adjustments to be made to account for any differences between the two schemes. For example, Mrs T’s retirement age in the Scheme (60) is two years earlier than her retirement age in the LGPS (62).
9. Upon completion of the transfer, Mrs T’s records should have been updated to show an additional membership credit of 5 years 274 days. At this point, an error was made by NHS BSA and her transferred-in credit was added to the system twice. Therefore, from October 2007, NHS BSA’s records incorrectly showed two transfers from the LGPS, resulting in an overstated membership credit of 11 years 183 days.
10. Due to this error on the membership credit, NHS BSA issued a number of statements that overstated the projected lump sum and pension figures. This included a statement of Scheme membership dated 12 March 2012, and an annual benefit statement dated 31 March 2015, both of which Mrs T has referred to in her complaint.
11. The statement of Scheme membership dated 12 March 2012, included a section about transferred in membership. Under this section, it said “transferred service 11 years 183 days”, when it should have been 5 years 274 days. The incorrect transferred-in credit was also applied to the figures provided in the annual benefit statement dated 31 March 2015.
12. The error was eventually identified, and corrected, in October 2016 when Mrs T submitted an application for her retirement benefits. Following the correction, Mrs T raised a formal complaint because the lump sum payment was approximately £7,500 lower than she had expected and her annual pension was about £1,100 lower.
13. NHS BSA did not uphold her complaint. In summary, NHS BSA concluded that the membership credit of 5 years 274 days correctly reflects the benefits she transferred from the LGPS and she is now receiving her correct entitlement of benefits, therefore she has not suffered an actual financial loss.
14. Mrs T did not accept NHS BSA’s response and she has referred her complaint to us for an independent review.

Adjudicator's Opinion

15. Mrs T'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 below:-
 - In cases where incorrect information has been given to a member concerning the level of benefits payable under the Scheme, the general principle is that the member is only entitled to the actual amount of benefits he/she has accrued under the Scheme rules, that is, those based on the correct membership credit accrued under the Scheme. The member is not entitled to the figures overstated in error.
 - Mrs T was made aware of the correct membership credit on two occasions at the time of the transfer. The letters dated 6 July 2007 and 10 October 2007 clearly confirmed that the transfer of LGPS benefits would purchase 5 years 274 days of membership in the Scheme. This information was correct and sufficient for Mrs T to have, at the very least, enquired about the incorrect transferred-in membership quoted in later statements, as it was significantly higher than the confirmation received in 2007.
16. NHS BSA accepted the Adjudicator's Opinion and made no further comments.
17. Mrs T did not accept the Adjudicator's Opinion and the complaint was passed to me to consider. Mrs T provided her further comments which do not change the outcome. I agree with the Adjudicator's Opinion and I will therefore only respond to the key points made by Mrs T for completeness.
18. In summary, Mrs T's response to the Adjudicator's Opinion included the following points:-
 - Nothing has been done to hold NHS BSA accountable for the mistakes in her pension estimates.
 - NHS BSA has not shown any evidence that she signed to say she was happy to lose five years of her pension. The letter of 6 July 2007 produced by NHS BSA with a yes/no tick box, had not been ticked or signed by her.
 - She worked for Bradford District Care Trust from 23 April 1995 to 15 June 1996. She was then re-employed by another service on a part-time basis of 23.3 working hours until 2006. She does not understand why she lost 5 plus years and that does not add up.
 - The pension estimates gave the same information, a total membership of about 20 years and a transferred-in service of about 11 years. As she had worked and paid into her pension for about 20 years, why would she think it was wrong.

Ombudsman's decision

19. I acknowledge that NHS BSA issued a number of incorrect statements that had overstated the projected lump sum and pension figures, because the transferred-in membership had been added to the system twice. Having said that, I cannot overlook the fact that Mrs T was given the correct information on two occasions in 2007 regarding the transferred-in membership from the LGPS.
20. The letters dated 6 July 2007, and 10 October 2007, correctly confirmed that the transfer of LGPS benefits would purchase 5 years 274 days of membership in the Scheme. It is important to note that this information was given to Mrs T at the time of her decision to proceed with the transfer of LGPS benefits and also on confirmation that the transfer had been completed. So I consider it reasonable to think that Mrs T would have given some level of attention to the contents of those letters, in particular the letter of 6 July 2007, as the transfer could not have gone ahead without her ticking the appropriate box on the enclosed form.
21. Mrs T says that the letter produced by NHS BSA had not been ticked or signed by her. However, as I have mentioned above, the transfer of her LGPS benefits into the Scheme could not have gone ahead without her instruction. NHS BSA has said that her election was sent directly to the LGPS. If Mrs T was unaware of the letter dated 6 July 2007 which correctly detailed the level of transferred-in membership, then it is reasonable to expect Mrs T to have queried the subsequent confirmation that the transfer had been completed purchasing 5 years 274 days of membership. Overall, I am satisfied that Mrs T should reasonably have been aware of the correct transferred-in service based on the two letters issued to her in 2007.
22. Mrs T was a member of the LGPS from 1996 to 2006 and I can see why she believes the figures do not add up. Whilst she may have worked for 10 years, she was employed part-time for this period, and based on the hours she actually worked, the LGPS confirmed that her accrued membership was 6 years 154 days. Following the transfer, this purchased 5 years and 274 days of membership in the Scheme and Mrs T is now receiving her correct entitlement of benefits.
23. Therefore, I do not uphold Mrs T's complaint.

Anthony Arter

Pensions Ombudsman
18 September 2017