

Ombudsman's Determination

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

Outcome

1. Mrs Y's complaint against TP is partly upheld. To put matters right, TP shall pay £500 for the distress and inconvenience caused.

Complaint summary

2. Mrs Y has complained about the time taken for TP to calculate her pension accurately. Mrs Y has also said:-
 - She was not informed until late in the process that she could have claimed her pension while the discrepancies on her pension records were being investigated.
 - She was caused "stress" by the loss of income over a ten-month period.
 - TP should have been assisting her in a successful early outcome.
 - TP did not reply to her queries, or when it did reply it was not within reasonable time scales.
 - Her time was wasted in protracted and often fruitless telephone calls to TP, her Employer and the Local Authority, trying to rectify the administrative errors.
 - The bulk of her complaint was not addressed in the Internal Dispute Resolution Procedure (**IDRP**).

Background information, including submissions from the parties

3. Mrs Y was an active member of the Scheme until she left in May 2014. During her employment Mrs Y worked a mixture of full time and part time hours.

4. TP regularly issued Mrs Y with estimates of her retirement benefits when she was an active member of the Scheme, which included the warning:

“Every effort has been made to ensure the accuracy, however, this Statement confers no right to the benefits quoted. Please read the on-line Frequently Asked Questions that give information on what action to take if you think your service details may be incorrect.”
5. In March and June 2014, TP provided Mrs Y with details of her retirement benefits which included a paper version of the retirement application form. The Notes that accompanied the application form explained the difference between the payment date of an “in service” and “out of service” pension application and said:

“If you have completed this form while still in teaching employment, your benefits (including any lump sum) will be paid from the first day after leaving that employment, provided you have reached the age of 55. If you have completed this form having already left teaching employment, you may select below the date that your benefits are paid. This cannot be sooner than 6 weeks after the date of Declaration. If there is no date selected, or the date selected is less than 6 weeks after the Declaration, Teachers’ Pensions will pay your benefits from 6 weeks after the date of the Declaration.”
6. Mrs Y has said that it was her intention to take her pension benefits when she stopped working in May 2014. However, when she applied for her pension benefits online, as part of the process she was required to confirm that she accepted that the benefits offered were accurate. As she did not consider her service was correct, she believed that she could not apply until the discrepancies in her service records were corrected.
7. Mrs Y has explained that she tried to resolve the errors in her service record with her former Employer.
8. On 24 November 2014, Mrs Y emailed TP and said that she would like to claim her pension, but she was concerned that her service records were incorrect.
9. On the same day, TP replied to Mrs Y and provided the member information it held including her service records supplied by her former Employer. It also explained that in the first instance Mrs Y should contact her former Employer giving details of the suspected discrepancy and on receipt of any amended information TP would update her service record.
10. Mrs Y explained that she and her former Employer had some difficulty in rectifying her service records from 2003 onwards when she worked part-time. She said it took six “frustrating months” for her former Employer to allow her access to the employment records.
11. On 17 December 2014, the former Employer provided updated service details to TP.

12. In January and February 2015, following an enquiry from Mrs Y, TP sent her an updated Statement of Service and explained that if there were any suspected discrepancies, she should contact her former Employer.
13. Mrs Y said she had called TP numerous times during January and February 2015 attempting to resolve the issues with her Statement of Service, including requests to speak to a manager.
14. On 24 February 2015, Mrs Y's online application for pension benefits was accepted and she was informed that her pension benefits would be paid in April 2015.
15. Mrs Y telephoned TP to complain about the further delay and was told during the telephone conversation that she could have claimed her pension while the errors with her service were being resolved.
16. On 3 March 2015, Mrs Y complained to TP and said that she had requested to speak to a manager on numerous occasions to rectify the problem over the last few months, but she never received a call back. She wanted to be paid her pension and was deeply frustrated by TP, which was an office that existed "to serve the interests of members" of the Scheme. Mrs Y considered that she should receive her pension back dated to June 2014, or her pension benefits should be uplifted because of the delay in payment.
17. TP replied and said:-
 - The Scheme's records were compiled from information provided by teachers' employers, and it could only amend member records on receipt of confirmation from Mrs Y's former Employer of any missing or incorrect details.
 - Mrs Y had been sent a yearly estimate of retirement benefits since 2005, and if it was discovered that there was an error or omission then it would expect the member, via the employer, to submit amendments to TP straightaway.
 - TP was making arrangements to amend the on-line application process to allow an application to take pension benefits to proceed while service queries were being investigated.
 - The application form to take pension benefits was available to download, or Mrs Y could have requested a paper copy from her Employer or TP, at anytime. It explained the "statutory position" was:

"Your last day of pensionable employment was 31 May 2014, and your application was made on 24 February. As you were not in pensionable or excluded employment on this date, the earliest TP can pay you benefits is 6 weeks from the date of your application i.e. 7 April. Under the circumstances, I can only repeat the statutory position that cannot be overridden to allow for an earlier payable date to be used in the calculation of your retirement benefits. However, I would point out that although you will not start receiving your pension until 7 April, your

benefits in line with public service benefits, will be increased to reflect the successive pension increases from your last day of employment up to the payable date. The reduction factor to be applied to your benefits will also be lower in view of the later payable date. The higher level of pension arising from this will apply for the duration of the pension.”

18. On 19 March 2015, TP updated Mrs Y’s service details again following another update from her former Employer.
19. On 19 March 2015, the Department of Education (**DofE**) replied to Mrs Y’s complaint under the Internal Dispute Resolution Procedure (**IDRP**). The letter said:-
 - It could not consider any matter not subject to the provisions of the Regulations.
 - The administration of the Scheme was a partnership between TP, as the central administrator and teachers’ employers.
 - TP records were compiled from the information provided by teachers’ employers and TP can only amend these records on receipt of confirmation from the employer of any missing or incorrect details.
 - TP therefore relied on employers to ensure that the member information was accurate. This takes the form of an annual return each year from the employers providing membership and service information from 1 April to 31 March.
 - Mrs Y was provided with an estimate of retirement benefits every year from 2005 and as stated in the notes if there were any errors or omissions then the member should ask their employer to submit amendments to TP straightaway.
 - Mrs Y’s service was complicated because not all of her service information was submitted in the correct manner and the former Employer that had subsequently taken over the administration experienced difficulties in correcting the part time service and had to review the service details provided on more than one occasion.
 - Mrs Y’s records had been updated and TP was now satisfied the details were correct.
20. Mrs Y remained unhappy and referred her complaint to The Pensions Ombudsman’s office.
21. Mrs Y’s position is:-
 - In 2014 when she attempted to apply online for her pension TP’s website stated that she had to accept the pension details were correct, and if they were not, she should refer to TP on the telephone, which she had been doing for a number of months.
 - She was not informed until February 2015 that she could have applied for the pension while the potential anomalies were investigated.

- The issue was a missing four month period of service from December 2002 until March 2003, which was because the former Employer's payroll staff neglected to record all of her service accurately for that period.
- She first called her former Employer in September 2014 and the financial administrator refused to help with the errors and indicated the Local Authority was at fault.
- She did not consider that the insufficient record keeping on behalf of part time members by TP was her fault and she was obstructed from claiming her pension for ten months.
- TP did not reply to her numerous requests for help or when it did reply these responses were not within a reasonable time scale. She also felt she has wasted time in preparing written responses to TP.
- TP were not proactive and if it had been she would have been able to claim her pension sooner.
- She was caused "personal stress" because of the delays.
- Not all of her complaint was addressed during the IDRP, because the DofE could not look at any part of her complaint that was not the subject matter of the Regulations. This avoided answering the main issues she raised with TP.

22. TP's position is:-

- Regulation 131, of the Teachers' Pensions Regulations 2010 (**the 2010 Regulations**), placed a duty on employers to make annual reports providing the member and service information for each financial year.
- Schedule 7 of the 2010 Regulations states that a person not in pensionable employment is not entitled to benefits on the day they apply for the pension in writing, and any specified date must be no earlier than 6 weeks after the day on which the application is made.
- Regulation 107 of the 2010 Regulations states no benefits are to be paid unless a written application for payment has been made. As well as a paper application an application on the Scheme's secure website is considered a written application.
- Mrs Y was employed part time from 1 April 2003 to 31 August 2008 and not all of her service was submitted in the correct manner in her Employer's annual returns of service and the information was revised on more than one occasion.
- Mrs Y was provided with annual estimates of benefits to enable her to check her entitlement. Mrs Y contacted TP on a number of occasions and also requested

additional estimates of her pension benefits on 11 April 2011, 18 January 2013, 26 March, 9 June and 12 September 2014. She therefore had ample opportunity to notice any errors in her service record.

- It did advise Mrs Y that she could apply online or use the paper application form. It was her choice to apply online rather than use the paper application form.

Adjudicator's Opinion

23. Mrs Y's complaint was considered by one of our Adjudicators who concluded that further action was required by TP. The Adjudicator's findings are summarised below:-

- TP were reliant on Mrs Y's former Employer to provide accurate service and salary details.
- The issue was how Mrs Y's part time service was recorded in 2002 and 2003, but Mrs Y did not raise the discrepancy until 2014, when she wanted to take her pension benefits. The Adjudicator considered that in view of the quantity of information that Mrs Y received from TP before 2014, she would have expected Mrs Y to have checked the correct position much sooner than she did.
- The Adjudicator did not consider TP's actions in referring Mrs Y to her former Employer were unreasonable.
- The Adjudicator appreciated Mrs Y's frustration in having to contact her former Employer to correct her pension record, but TP are unable to update the service record without the accurate information being provided by the former Employer.
- Mrs Y has said it took six months for the former Employer to allow access to her records and it was this issue that caused the delay rather than TP's actions in explaining what was necessary to get her service records updated.
- Once the records were updated between December 2014 and early 2015 TP was then able to provide an accurate Statement of Service and Mrs Y was able to take her pension benefits.
- TP did not unnecessarily delay matters when Mrs Y's pension application was finally accepted in February 2015 because at this time Mrs Y was no longer an "in service" member and she had to wait six weeks for her pension to be put into payment. This was in line with the information provided with the application form and the 2010 Regulations.
- TP were unable to put Mrs Y's pension into payment until it had received written instructions to do so, this being by a signed paper application form or online via the website. As Mrs Y also had access to the paper application form, as an alternative to applying online, she was not prevented from applying for her pension benefits.

- Mrs Y had not lost out financially as her pension would have been actuarially increased from her last day of employment up to the date of payment. So, overall the pension paid in 2015 should be higher taking into account her corrected service for the period that her pension was deferred, than the pension that would have been paid in 2014.
 - Under the IDRP, TP acknowledged it was making amendments to the on-line application process to make it clear that applications for pension benefits could proceed, without it being acknowledged that the benefits were correct. The Adjudicator considered that this ambiguity in the online application process amounted to maladministration.
 - The main complaint issues were responded to by TP and DofE during the IDRP. However, part of Mrs Y's complaint was about the lack of response from TP and the issues with the online application process. Mrs Y made a number of telephone calls, she has also expressed how frustrated she found the whole experience and that a manager did not telephone her despite her requests.
 - The Adjudicator considered it would have been helpful for TP to have specifically responded to this part of the complaint and for a manager to have at least responded to her request for a return call. Had this happened it is likely Mrs Y would have been spared some measure of the inconvenience and uncertainty.
 - TP's lack of response on these issues and the ambiguity of the online retirement application process caused Mrs Y distress and inconvenience. TP should pay Mrs Y £500 in respect of the significant distress and inconvenience caused to her by its maladministration.
24. TP and Mrs Y did not accept the Adjudicator's Opinion and the complaint was passed to me to consider. Mrs Y provided further comments which do not change the outcome.
25. I agree with the Adjudicator's Opinion and note the additional points raised by Mrs Y as summarised below:-
- TP did not help facilitate taking her retirement benefits. She was not told until February 2015 that she could apply for her retirement benefit despite the errors on her pension record. Had she been told when she first contacted TP in March 2014, she would have applied for her pension then.
 - She was denied access to her information by the former Employer until December 2014. Without the cooperation of TP and her former Employer she considered she could not apply for her pension benefits, as she thought she had to get her service records corrected before she could apply for her pension because of the wording on the website.

- Since the Adjudicator's Opinion she had raised a Subject Access Request with TP. There are a number of emails missing. This showed the "utter chaos caused by TP's and school staff's incompetence to correct errors, and so solve my being unable to access my pension until records were correct."
- The missing emails also substantiate her case that the TP documentary provision was unreliable. Her records were complex, and TP was unable to evidence her service records.
- The wording on the website originally required her to agree inaccurate figures, so she thought the claim could not proceed until the errors had been identified. She felt that she was misled by the wording on the website and this was acknowledged by the Adjudicator.
- The notes of the telephone conversations provided by TP are wholly inadequate and do not represent the requests that she made. She provided several attachments as examples of the bad record keeping including –
 - When she requested a more detailed service record the internal memo from 26 March 2014 from TP just stated "aab", a note which informed nothing of the conversations content.
 - The note of the telephone conversation from 17 December 2014 only said, "discussed service". However, this was the call made by the former Employer in her presence, where the TP staff member was told the correct service information and that details would be emailed over that afternoon.
 - The note of the telephone conversation of 17 February 2015 only stated that a call was taken with no details of what was discussed.
- She was suffering from ill health due to the distress caused by the complaint.

Ombudsman's decision

26. Mrs Y contends that she would have applied for her pension in March 2014 had she not been misled by the wording on the website. Mrs Y considered that she was led to believe she had to ensure her service record was correct before she could apply for her pension. She argues that TP were unhelpful, did not respond in full to her complaints, and maintained inaccurate records. She was very frustrated by the whole experience, and this caused her distress.
27. I appreciate Mrs Y was frustrated with TP's record keeping with regard to her service record. However, TP are ultimately reliant on employers to provide accurate and up to date service and salary information in accordance with the 2010 Regulations, and

that the current arrangement is for information relating to a member's salary and service is provided on a yearly basis by the Employers.

28. In Mrs Y's case, the discrepancy was in regard to her part time service between 2002 and 2003. I note Mrs Y did not raise this until 2014 despite being issued with an annual benefit statement each year. Considering the warnings contained in those annual benefit statements and the quantity of information Mrs Y had received in addition, Mrs Y must take some responsibility for not raising the issue earlier.
29. I agree that TP should keep accurate records and that it would have been helpful to have more detailed telephone notes of what was discussed with Mrs Y and the former Employer. However, when it was notified verbally of changes to Mrs Y's service records TP would have expected the former Employer to follow up any information in writing, and I note that the former Employer did then email TP with the amended service details. I do not find the lack of detail in the telephone notes on this occasion amounts to maladministration.
30. When Mrs Y identified errors in her service record and brought the matter to the attention of TP, it acted reasonably when advising Mrs Y to contact her former Employer. This is because TP were unable to update her service record without the accurate information being supplied by the former Employer. I find it was the former Employer's reluctance to allow access to Mrs Y's records that caused the delay rather than TP's actions in explaining what was necessary to get her service records updated.
31. When Mrs Y's pension application was accepted in February 2015, the payment of the pension was not delayed by TP as she asserts. As Mrs Y was no longer an "in service" member, having left in May 2014, she had to wait six weeks for her pension to be put into payment. This is in line with the 2010 Regulations and is not maladministration.
32. Mrs Y has said it was the online application process that stopped her applying for her pension in March 2014. This is because wording on the website suggested she had to accept the pension benefits were correct in order to apply online. Mrs Y felt she could not do this as she knew her pension benefits were incorrect. TP and the DofE did acknowledge that it was making corrections to its online application process. I find this ambiguity amounted to maladministration as it was misleading and undoubtedly caused her distress. I note that changes have now been made to the online process to make it clear that applications for pension benefits could proceed, without it being confirmed by the applicant that the benefits were correct.
33. I appreciate Mrs Y's frustration that due to the ambiguity of the wording on TP's website she thought she had to resolve her service record before claiming payment of her retirement benefits. TP was unable to put Mrs Y's pension into payment until it had received written instructions to do so, this being by a paper application form or online via the website. As Mrs Y also had access to the paper application form as an

alternative to applying online, I do not find that she was stopped from applying for her pension benefits.

34. Mrs Y has expressed how frustrated she found the whole experience and that a manager from TP did not telephone her despite her requests when she was trying to resolve the issue of her service records. It would have been helpful for TP to have specifically responded to this as part of the complaint, or at least accept that the lack of response to her requests caused her some uncertainty and inconvenience. I find TP's lack of response on these issues has caused Mrs Y distress and inconvenience. I also find that Mrs Y was caused further inconvenience due to the ambiguity when trying to apply online.
35. I partly uphold Mrs Y's complaint and make the following direction.

Directions (if applicable)

36. Within 28 days of the date of this Determination, TP shall pay £500 to Mrs Y for the significant distress and inconvenience which she has suffered.

Anthony Arter

Pensions Ombudsman
29 September 2021