

## Ombudsman's Determination

Applicant	Mrs S
Scheme	Local Government Pension Scheme ( <b>LGPS</b> )
Respondent	South Yorkshire Pension Authority ( <b>SYPA</b> )

## Outcome

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

## Complaint summary

3. Mrs S complains that SYPA supplied her with an incorrect late retirement quotation in August 2017, showing considerably overstated benefits which, she relied upon to her financial detriment by leaving employment in March 2018.

## Background information, including submissions from the parties

4. Mrs S' date of birth is 8 June 1951. Her normal retirement date was 8 June 2016.
5. Mrs S requested and received two benefit quotations in 2016 from SYPA showing the correct standard tax free lump sum and pension benefits available to her based on assumed late retirement dates of 31 July and 31 December 2016.
6. In August 2017, SYPA sent her an annual benefit statement (**ABS 2017**) showing incorrectly overstated benefits available to her assuming she had decided to retire late on 31 March 2017.
7. The ABS 2017 included the following caveat in the notes:

"Please note

Whilst every effort has been made to ensure your forecast is based on accurate data you should only take it as a guide to your pension entitlement. If you are thinking of retiring in the next 6 months please ask us for a quote based upon your chosen retirement date."

8. Details of the standard pension and tax free lump sum figures shown on the two quotations and ABS 2017 are set out in the table below.

<b>Issue Date of Quotation/ABS</b>	<b>Proposed Retirement Date</b>	<b>Annual Pension (standard benefits) (£)</b>	<b>Lump Sum (standard benefits) (£)</b>
5 May 2016 (Quotation)	31 July 2016	815	Zero
3 November 2016 (Quotation)	31 December 2016	974	Zero
31 August 2017 (ABS)	31 March 2017	3,205	1,204

9. Mrs S says that:

- after receiving the ABS 2017 in September 2017, she began planning for her retirement;
- she met with Mr P of SYPA on 26 October 2017 who confirmed that the figures shown on the ABS 2017 were correct;
- Mr P also told her that if she was contemplating retirement in March 2018, her actual benefits would be slightly higher than those shown on the ABS 2017;
- following this meeting, she notified her employer in December 2017 that it was her intention to retire in March 2018 and handed in her resignation letter in early January 2018

10. On 2 January 2018, SYPA sent Mrs S a letter showing that she was entitled to the following estimated benefits assuming she retired on 21 March 2018:

- a standard pension of £1,404.05 pa; or
- a maximum tax free lump sum of £6,060.12, with a reduced pension of £909.04 pa

11. Mrs S met with Mr P again on 25 January 2018. According to a note of a meeting made by Mr P:

“Mrs S came in to ask about her recent pension quotation as it was much lower than the statement that she had received for 31/03/2017.

I had a quick check over the amounts with her and it looked like that was the case.

At this point I went back to my computer and did a quick calculation of the benefits manually and it came out around the same amount as the quotation that had been sent recently.

I realised that on the statement it was overstating 5 years 310 days of final salary benefits yet the post only began post April 2014. I then took the information back to Mrs S who was understandably upset.

I confirmed that the lower figure was indeed correct and apologised that the statement was so far out. She mentioned she had already made plans for the money that she wouldn't have done if it was the lower figure..."

12. SYPA says that:

- the considerable increase to the pension and tax free lump sum figures shown on the ABS 2017 in comparison with those on the second quotation cannot be accounted for by the additional three months' pensionable service which accrued between 31 December 2016 and 31 March 2017;
- the notes section of the ABS 2017 clearly stated that the figures should only be used as a guidance to her pension entitlement and if she was thinking of retirement in the next six months, she should ask for quote based upon her chosen retirement date;
- it appeared that Mrs S did not follow this instruction until she had already made her decision to retire;
- it is highly unlikely that, Mr P, a very experienced member of staff, would simply have confirmed that the figures shown on the ABS 2017 were correct to Mrs S without firstly checking her member records during their meeting in October 2017;
- it is reasonable to expect that Mrs S should have brought the significant discrepancies between the figures on the second quotation and the ABS 2017 documents to its attention;
- if she had, this would have "aroused suspicion" with Mr P which is exactly what happened when she met him again in January 2018.

13. Mrs S says that:

"As I was considering whether I was financially able to retire I requested meetings to have the information that had been sent to me explained and verified. I had requested meetings and updated written information on a few occasions from SYPA so that I was able to make an informed decision about handing in my retirement resignation to my head teacher...During these meetings I was reassured that the financial information (the larger amounts) were correct - As a result I felt I was able to begin my retirement process. If it had been explained to me that it was a mistake...I would have continued to work for a further year and a term as I enjoyed my job and was very able to have carried on."

## Adjudicator's Opinion

14. Mrs S' complaint was considered by one of our Adjudicators who concluded that no further action was required by SYPA. The Adjudicator's findings are summarised below:
- There was little evidence provided either to confirm or deny Mrs S' allegation that Mr P provided her with incorrect information during their meeting in October 2017.
  - On the balance of probabilities, it was most unlikely that Mr P would have supplied Mrs S with flawed information which would not be supported by a simple check of her member records, or by a comparison of the significantly higher figures on the ABS 2017 with those on the second quotation which she received.
  - There was no dispute that SYPA provided Mrs S with an incorrect ABS in 2017. She should have been given the correct figures and the failure to do so was clearly maladministration on the part of SYPA.
  - Although Mrs S received incorrect details of her late retirement benefits, it did not confer on her a right to the higher benefits erroneously quoted. If she had acted to her financial detriment based on the reasonable belief that the figures were correct, then she might be compensated for the harm.
  - Based on the available evidence, it was the Adjudicator's opinion that she should not have held a reasonable expectation of receiving the overstated incorrect benefits shown on the ABS 2017.
  - Mrs S had consequently not suffered any actual financial loss because of the maladministration identified and attributable to SYPA.
  - The Pensions Ombudsman would expect Mrs S to have taken steps to mitigate the loss of the pension she expected to receive once she was notified of the error. She could not therefore claim for a loss that could have been mitigated, whether she in fact did so or not.
  - Given that the error was detected and corrected by SYPA over two months prior to Mrs S' actual retirement date in March 2018, there was an opportunity for her to have withdrawn her resignation once the error came to light.
  - Mrs S has clearly suffered considerable distress and inconvenience because of the maladministration identified. In recognition of this, SYPA had offered her a payment of £750, as a gesture of goodwill, which was reasonable in the circumstances.
15. Mrs S did not accept the Adjudicator's Opinion and the complaint was passed to me to consider. Mrs S 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 S for completeness.

## **Ombudsman's decision**

16. There is no dispute that SYPA issued an incorrect ABS in 2017, and so have provided Mrs S with misinformation. Mrs S says that she based her decision to leave employment with SYPA on this incorrect and misleading information.
17. Although Mrs S received incorrect details as to her entitlement, it did not confer on her a right to receive those benefits. However, if she acted to her detriment based on the reasonable belief that the figures were correct, then she may be compensated for this.
18. In this case, I do not consider that Mrs S can demonstrate that she reasonably relied on the misinformation, provided in the ABS 2017, to her detriment.
19. Mrs S requested two benefit quotations in 2016 which showed the benefits available to her in the LGPS if she retired late on 31 July 2016 and 31 December 2016. The figures provided were consistent and showed a moderate increase. In 2017, Mrs S subsequently received the ABS 2017 which quoted significantly higher benefits. In my view, it is reasonable to presume that Mrs S should have at least compared the benefit figures shown on the second quotation with those on the ABS 2017 before making any decision to retire. If Mrs S had done so, she should have noticed that the figures on the ABS 2017 were significantly higher than those on the second quotation and brought this to the attention of SYPA during her first meeting with Mr P in October 2017.
20. Apart from the conflicting recollections given by Mrs S and Mr P of what happened during the meeting in October 2017, there is little evidence to either confirm or deny Mrs S' allegations. I can only form a view on the available evidence and on the balance of probabilities, I agree with the Adjudicator that it was highly unlikely that Mr P would have given Mrs S incorrect information which would not be supported by a simple check of her member records or by a comparison of the figures available.
21. In any case, if Mrs S had followed the instruction on the ABS 2017 and requested another quotation based on her chosen retirement date before handing her notice in, it is likely that the estimated figures provided would have been in line with the retirement estimates she received in 2016.
22. I also agree with Adjudicator's view that Mrs S should have taken steps to mitigate the loss of the pension she expected to receive by withdrawing her resignation once she had noticed that the figures on the letter which she received in January 2018 were much lower than those shown on the ABS 2017.
23. Consequently, I do not consider that SYPA should compensate Mrs S for any actual financial harm she has suffered because of the incorrect quotation as she had ample time to withdraw her resignation and continue working.
24. However, the discovery that her pension was to be significantly less than she expected will have caused Mrs S significant distress and inconvenience. SYPA has

already offered her a payment of £750 as a gesture of goodwill. In my view, the award is fair and in line with what I would likely have directed SYPA to pay her had such an offer not been made. My award for non-financial injustice where the distress and inconvenience is significant, is £500.

25. Although I sympathise with Mrs S's circumstances, I do not uphold her complaint. She should contact SYPA if she wishes to accept its offer..

**Anthony Arter**

Pensions Ombudsman  
30 January 2019