

Ombudsman's Determination

Applicant	Ms E
Scheme	Teachers' Pension Scheme (the Scheme)
Respondent	Teachers' Pensions (TP)

Outcome

1. Ms E's complaint against TP is partly upheld, but there is a part of the complaint I do not agree with. To put matters right (for the part that is upheld) TP should award Ms E £1,000 in recognition of the serious distress and inconvenience it has caused her.

Complaint summary

2. Ms E has complained that she relied upon incorrect annual benefit statements from TP, which overstated her retirement benefits payable from the Scheme. Ms E said this led her to retire from her employment, linked to the Scheme, in August 2015, instead of at age 60 on 14 February 2018.

Background information, including submissions from the parties

3. In 1998, Ms E's retirement benefits were reinstated into the Scheme after a transfer out to Legal & General (**L&G**) was found to be mis-sold. The relevant funds were returned to the Scheme to purchase additional years' service in the Scheme, covering the period 1 September 1987 to 31 March 1990.
4. Ms E has said that she contacted TP several times in 2015, requesting information as she was planning for retirement. She says there then followed several emails between her and TP about the average salary calculations that would be used to establish her final retirement benefits. Ms E has said that TP did not inform her of any errors in her benefit calculations at that time.
5. Ms E says she contacted TP again in November 2017, stating her intention to start taking retirement benefits in February 2018, but no response was received. Ms E has said she saw no reason to doubt the figures in the online benefit statement she viewed at the time.
6. On 5 February 2018, TP wrote to Ms E to tell her it had identified a period of duplicated service which had resulted in an overstated level of retirement benefits in

her annual statements and her online retirement quotes. TP has said it incorrectly duplicated the service for the 1987 to 1990 period when Ms E's benefits were reinstated.

7. Ms E has said she calculated that a pension income of around £800 per month was required to fund her lifestyle. According to Ms E, a benefit statement as at 3 February 2015 showed an annual pension of £9,646.58 (about £803 per month), which would meet that requirement.
8. On 30 January 2018, Ms E again checked her online benefit statement and found that her predicted annual pension had reduced to £9,060.50, or £755 per month. Ms E has argued that, had she known of TP's error in 2015, she would not have retired from her main source of employment until age 60 (on 14 February 2018). Ms E is therefore asking that TP honours payment of the higher level of benefits that she expected to receive.
9. Ms E refers to a case where the Pensions Ombudsman's Determination, Mather (PO-5291), found in favour of the applicant in what Ms E considers to be similar circumstances to her case.
10. TP's response is summarised below:-
 - Ms E should have known that, by opting out and transferring out her benefits up to 30 June 1990, this period would no longer count towards reckonable service. Further, as she did not re-join the Scheme until 1 August 1996, Ms E ought to have known that her pensionable service prior to that date would only be based on restored service and additional years bought with the reinstated funds from L&G. Ms E was informed at least twice by TP of the value of service transferred out and the subsequent amount reinstated when this transaction took place in March 1998.
 - Annual benefit statements were issued by TP to Ms E beginning on 2 March 2004. This first statement quoted benefits based on service transferred into the Scheme on 1 August 1996 (the benefits from L&G that were reinstated in 1998) and 1 year and 318 days of purchased additional years (**PAY**).
 - The benefit statement separately showed retirement benefits for Ms E's service from 1 September 1987 to 31 March 1990, as reckonable service. This duplication of benefits was repeated in benefit statements between April 2005 and 2018, as well as in Ms E's online statements.
 - Ms E should have identified the duplication of benefits shown in the benefit statements, which in any case say, "Although every effort has been made to ensure accuracy, it is for illustration only and does not give you the entitlement to the retirement benefits quoted. At retirement your membership history will be scrutinised to ensure benefits are calculated on the correct service."

- Ms E had already left her main employment with Eastleigh College on 31 August 2015 by the time she contacted TP for information in September 2015.
- Ms E's enquiries in September 2015 were about the average salary calculations to be used in her eventual retirement benefits. TP said there is no record of Ms E enquiring about her pensionable service and that this would not have been considered when replies to average salary questions were issued.
- The issue of duplication of benefits did not come to light until Ms E applied for retirement benefits on 1 February 2018.
- Ms E may only receive retirement benefits that have been calculated in accordance with her correct entitlement, and not the overstated benefits that were quoted in the benefit statements and online.

Adjudicator's Opinion

11. Ms E's complaint was considered by one of our Adjudicators who concluded that Ms E's complaint against TP should be partly upheld. The Adjudicator's findings are summarised below:-

- Ms E says that she relied on TP's overstated benefit estimates when making her decision to retire from her main employment in August 2015. However, this was more than two years before she started to take benefits from the Scheme on 14 February 2018. The Adjudicator considered it reasonable to assume that Ms E was not solely reliant on the income from the Scheme when she chose to retire early from her employment.
- For this reason, Ms E's case does not match the outcome of the Pensions Ombudsman's Determination in Mather (PO-5291), she refers to. In contrast to Ms E's case, the Ombudsman ruled that Mrs Mather had relied on incorrect information provided by the Scheme to make irreversible financial decisions to her detriment, so, the Adjudicator did not accept the Mather case as evidence in support of Ms E's complaint.
- TP has, by its own admission, provided Ms E with incorrect benefit statements and online benefits quotes from 2004 to 2018. This time period is not insignificant and the incorrect information will have raised Ms E's expectations as to the amount of retirement benefits that could be received at a future date.
- It is reasonable to have expected Ms E to check the details within the annual benefit statements, following which she could possibly have recognised that there was an error in the service history.
- Ms E has confirmed that she left her main employment on 31 August 2015, which is before she contacted TP a month later, in September 2015, to enquire about the average salary calculations. The Adjudicator did not agree that this

enquiry could have presented TP with an opportunity to check Ms E's retirement benefits, before she left her employment.

- Whilst it was for TP to make every effort to present the correct information to Ms E, the incorrect benefit statements themselves do not give Ms E a right to payment of overstated benefits.
- The duplication error, even though only one mistake, was repeated in Ms E's statements over many years. This amounts to maladministration by TP. It led Ms E to have an incorrect expectation for a number of years as to the pension she might receive. The Adjudicator considered that the distress and inconvenience she has been caused by this to be serious.

12. Ms E and TP did not accept the Adjudicator's Opinion and the complaint was passed to me to consider. Both parties provided 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 TP and Mrs E for completeness.

13. Ms E raised the following points:-

- She left her permanent employment in August 2015, as she had calculated, based on the incorrect benefit statements, that she could live solely on her benefits from TP at age 60. Ms E said she took a lower paid role from 1 September 2015 until February 2018 that paid a similar amount to the overstated benefits that she expected to receive.
- As a result of the retirement benefits being reduced to the correct level, she will now need to continue working up to her state pension age in February 2024.
- The benefit statement dated 2 March 2004 does not include the dates the transferred in service relates to. This, added to the fact that the error was first made such a long time ago and because it was duplicated over several years, meant that it was impossible for her to identify the error.
- Ms E said that no benefits from outside of the Scheme had been transferred in at the time the March 2004 statement was written.
- This benefit statement and subsequent statements show a gap in her service record between 1990 and 1996, which she presumed to be correct.
- As she relied on the incorrect statements received from the Scheme to her financial detriment and she did not know an error had been made, her complaint is similar to the Pensions Ombudsman's Determination in Mather (PO-5291).

14. TP disagreed that its one error, which was duplicated over many years, would have led to Ms E experiencing serious distress and inconvenience, on the basis that she could have identified the mistake herself from the benefit statements.

Ombudsman's decision

15. Ms E said she made the irreversible decision to leave her permanent employment in August 2015, with the expectation of receiving a higher pension at age 60, in February 2018. She argues that TP's refusal to pay these overstated benefits will now cause her financial detriment.
16. However, the benefit statement of 2 March 2004, quoted benefits for service transferred into the Scheme on 1 August 1996 as well as for reckonable service from 1 September 1987 to 31 March 1990. Ms E could reasonably have been expected to understand that, because she had left service in 1990 and not re-joined until 1996, the period of reckonable service should not have been included. It was those benefits that had been transferred out and were then reinstated. They subsequently appeared separately in benefit statements from March 2004 onwards, as service transferred into the Scheme. In my view, Ms E could have recognised this duplication of benefits.
17. Ms E may not rely on the Determination in Mather PO-(5291), as evidence in support of her complaint. Mrs Mather was found to have relied on incorrect information that she could not have known about, which caused her financial detriment.
18. I do not agree that the omission from the 2004 benefit statement of the dates of service that the transfer in covers is significant. There would have been no other period of service, other than Ms E's service between 1987 and 1990 that could have been transferred in during August 1996. No benefits were otherwise due to Ms E for the period 1990 to 1996, as she had left the Scheme. However, if any of the information provided in the benefit statements from 2004 onwards was unclear, the onus would have been on Ms E to request further details from TP at the time.
19. I recognise that the error in Ms E's benefits statements has been duplicated over many years and that she could reasonably have expected TP to correct the information sooner than has been the case.
20. Whilst Ms E could have recognised the duplication in service, it was ultimately TP's responsibility to check the quality of the information that was provided to Ms E in the benefit statements and to correct any error within a reasonable timescale.
21. I do not find that the error has caused Ms E financial detriment as she was never entitled to the overstated amount. However, I do find that the error has caused her non-financial injustice.
22. Therefore, I partially uphold Ms E's complaint.

PO-23830

Directions

23. Within 28 days of the date of this Determination, TP shall pay Ms E £1,000 in recognition of the serious distress and inconvenience that was caused to her by its administrative error.

Anthony Arter

Pensions Ombudsman
8 July 2019