

Ombudsman's Determination

Applicant	Ms N
Scheme	NHS Pension Scheme (the Scheme)
Respondent	NHS Business Services Authority (NHSBSA)

Outcome

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

Complaint summary

3. Ms N has complained that NHSBSA has said she is not entitled to a pension from the Scheme.

Background information, including submissions from the parties

4. Ms N has said she worked for NHSBSA from 1963 to 1979, and she has provided a list of roles she worked in.
5. In 2018, Ms N began exploring whether she had a pension with the Scheme. Through her investigations, NHSBSA explained that she did not have a pension. Therefore, she went through the Scheme's internal dispute resolution procedure (**IDRP**).
6. On 3 July 2018, Ms N raised a dispute under stage two of the Scheme's IDRP. She said she was dissatisfied that NHSBSA was saying she did not have a pension within the Scheme.
7. On 1 August 2018, NHSBSA provided its response to the stage two IDRP. It explained from 5 November 1963 to 27 March 1965, Ms N paid contributions into the Scheme, but received a refund of £35. Ms N also paid into the Scheme from 23 January 1967 to 4 June 1967, in respect of which she received a refund of £10.
8. NHSBSA explained that members who left the Scheme between 1 October 1961 and 1 October 1972, had to achieve a minimum of ten years' membership in the Scheme in order to be eligible for pension benefits. However, if the pensionable earnings

exceeded £5,000 in any financial year, a refund would not be paid, and the pension would be deferred. There was limited records and evidence, due to the time that had elapsed. However, it would appear that Ms N was not in pensionable employment for a minimum of ten years. Ms N may have been employed by the NHS, but the records show that she only paid contributions in respect of the periods: from 5 November 1963 to 27 March 1965; and, from 23 January 1967 to 4 June 1967. As these periods together represent less than ten years' service, NHSBSA provided a refund of contributions. Moreover, even if she had contributed to the Scheme for at least ten years, the level of contributions refunded - £35 and £10 meant she did not exceed £5,000 of pensionable earnings in any financial year. Therefore, NHSBSA concluded that Ms N did not hold any benefits within the Scheme.

9. Ms N remained dissatisfied and brought her complaint to the Pensions Ombudsman to be independently reviewed.

Adjudicator's Opinion

10. Ms N's complaint was considered by one of our Adjudicators who concluded that no further action was required by NHSBSA. The Adjudicator's findings are summarised briefly below:
 - NHSBSA has provided clear evidence as to why Ms N does not hold a pension within the Scheme.
 - Ms N would need to provide substantial evidence to prove she was paying contributions for over ten years. However, without this information the complaint could not be upheld.
11. Ms N did not accept the Adjudicator's Opinion and the complaint was passed to me to consider. Ms N provided her further comments which do not change the outcome. Ms N said the following:-
 - she has continually received a salary from NHS employment from 1963 to 1979;
 - she never handed in her notice, so, she is still employed by the NHS;
 - she was unable to bank the refunds NHSBSA provided to her because she did not have a bank account; and
 - she would like my office to have her complaint reviewed by an independent actuary before a final Determination is made.
12. I agree with the Adjudicator's Opinion, and I will therefore only respond to the key points made by Ms N for completeness.

Ombudsman's decision

13. Ms N has provided a list of roles she worked in from 1963 to 1979. She believes this proves she was in NHS employment for over ten years', meaning she is eligible for a pension.
14. NHSBSA has provided details of the pensionable employment Ms N undertook from 5 November 1963 to 27 March 1965, and from 23 January 1967 to 4 June 1967. Although, Ms N may have continued to be in NHS employment, she was not paying contributions. Therefore, she was not entitled to a pension, she was only entitled to the refund of contributions, which she received.
15. Ms N has not provided any evidence to prove she was paying contributions for periods of employment that NHSBSA has not accounted for. Therefore, I cannot find that NHSBSA has done anything wrong in not paying her a pension.
16. Ms N believes as she never handed in her notice for the roles she was employed in, that she is still legally employed. I do not agree this is true as she is not receiving a salary from an NHS employer. Even if she was employed, it does not automatically follow that she would be entitled to a pension from the Scheme. Further, NHSBSA's role is to manage and administer the Scheme, based on information provided by the relevant NHS Employers.
17. Ms N has said she was not able to bank the cheques she received from NHSBSA for her refund of contributions, because she did not hold a bank account. While this may have been the case, I do not find that this means NHSBSA is required to pay Ms N a pension. She should have raised this with NHSBSA at the time, there is no evidence that she did this at the time.
18. Finally, Ms N has asked that I instruct an independent actuary on her behalf. We do not provide an actuarial service so this is not something that I can direct. However, the evidence is clear that she does not hold a pension with the Scheme.
19. Therefore, I do not uphold Ms N's complaint.

Karen Johnston

Deputy Pensions Ombudsman
8 March 2019