

## Ombudsman's Determination

Applicant	Mr S
Scheme	NHS Pension Scheme ( <b>the Scheme</b> )
Respondent	NHS Wales Shared Services Partnership ( <b>NWSSP</b> )

## Outcome

1. I do not uphold Mr S' complaint and no further action is required by NWSSP

## Complaint summary

2. Mr S has complained that he has been provided with incorrect information and pension forecasts over a number of years. He says he has relied on this information in making financial plans and decisions and that the errors have caused him a significant amount of distress and inconvenience.

## Background information, including submissions from the parties

3. Mr S was employed in the NHS from September 2000, and became a member of the Scheme.
4. In September 2002, he elected to pay additional contributions of 9% of salary in order to enhance his pension benefits, but he stopped these payments a few months later due to financial pressures.
5. NWSSP confirm that according to their records these payments stopped on 26 August 2003.
6. NWSSP say that because the initial documentation to establish the additional benefits was incomplete, specifically Form AB54 was not supplied, it was unable to update Mr S' pension record in 2002.
7. In fact, it appears it was not until March 2014 that the Employer contacted NWSSP to provide a copy of the AB54. At the same time the Employer confirmed the additional payments had ceased in August 2003.

8. However, Mr S has since received pension forecasts which assumed his additional contributions had continued and which therefore significantly overstated his prospective pension.
9. Mr S met with NWSSP on 28 October 2016 to discuss his pension. In an email dated 29 December 2016, NWSSP said that neither they nor the NHS Pensions Agency held any correspondence requesting the added years contract to be cancelled. It said if the added years contract was to be cancelled from 26 August 2003 any previous membership histories and estimates will have been overstated. It offered to calculate any arrears should Mr S wish to continue with the added years contract.
10. NWSSP wrote again to Mr S on 4 January 2017. It quoted a range of costs to reinstate Mr S' added years entitlement. To reinstate it fully up to age 60 would cost £38,368.97 and would provide an estimated pension of £11,306.98 p.a. and an estimated lump sum of £33,920.95. By contrast, if Mr S decided against reinstating his added years, thereby incurring no further additional cost, his estimated pension would be £7,388.72 p.a. and an estimated lump sum of £22,211.91.
11. Mr S complained. He said he regularly checked his online pension forecast and based on this had planned to retire at age 60. He said he had planned his living and working arrangements around this.
12. He said he had three main issues. Firstly, that the benefit calculations were completely wrong; secondly, he had been told he must not have cancelled the additional contributions whereas it was now agreed he had; and thirdly there were complete inconsistencies with regard to the length of reckonable service in the quotes he had received.
13. He said it was unreasonable to expect him to pay almost £40,000 to retain his forecast benefits. He asked for the forecast to be retained without having to pay any additional contribution. He added that this had caused him a great deal of upset and stress.
14. The response to Mr S' complaint came from NHS Business Services Authority (**NHS BSA**) under the Scheme's internal dispute resolution procedure (**IDRP**). In its Stage 2 decision, dated 13 November 2017, it said a statement issued in September 2011, as part of the NHS Pension Choice Exercise, did not include any added years and there was no record of Mr S having queried this at the time.
15. NHS BSA said it was in March 2014 that Mr S' employer contacted NWSSP to provide a copy of the AB54 and to confirm that Mr S had ceased payment of the additional contributions on 25 August 2003. This appears to contradict the statement by NWSSP that neither it nor the NHS Pensions Agency held any record that the added years contract was to be cancelled.
16. NHS BSA said that Mr S' employer had obtained a history of his Scheme membership on a number of occasions in May 2015, and had also obtained an estimate of his pension on 20 May 2015. However, it was not until 15 November 2016

that it raised a query with NHS Pensions regarding the added years purchased. It was at this stage that Mr S' pension record was updated to show the additional contributions had ceased in August 2003.

17. Mr S' complaint was upheld in part as it was accepted NHS BSA had received notification on 21 March 2014 of Mr S' additional contributions having ceased, but his record was not updated correctly at the time. For this NHS BSA apologised.
18. Mr S lodged a further complaint with NWSSP on 15 November 2018. In this he referred to significant inaccurate information given to him over the previous 10 to 12 years, including forecasts based on added years of service. He said when he had challenged the figures he was told on several occasions they were correct and that he had made additional contributions. He said he was provided proof of this in writing.
19. NWSSP responded on 21 December 2018. It confirmed the fact that additional contributions had ceased in August 2003, although it said this was due to a change in employment which Mr S says is incorrect. It said quotes received up until February 2014 did not show added years as NHS BSA had not set up the added years contract. It confirmed that the record was not amended to show additional contributions had ceased and, as a result, statements and quotes issued in May 2015 and April 2016, were overstated.

## **Adjudicator's Opinion**

20. Mr S' complaint was considered by one of our Adjudicators who concluded that no further action was required by NWSSP. The Adjudicator's findings are summarised below:-
  - It is clear that the additional contribution records for Mr S held by NHS BSA were incorrect for a period of time.
  - Mr S has said he has devoted considerable time to his financial planning over the years. He says he saved money to be able to purchase a house and he was able to do this based on his financial situation at the time. Those decisions were based on what income he had coming in and how much he could save.
  - It appears that the pension record was only incorrect from March 2014, when the employer provided NHS BSA with the completed AB54, and December 2016, when Mr S' record was updated to show he had stopped making additional contributions. Whilst Mr S says information was inaccurate for 10 to 12 years there is no evidence to support this.
  - Mr S describes having to make up a shortfall in his pension, but that is not the position here. Mr S will receive the pension to which he is entitled based on his membership of the Scheme and the contributions he has made. He has not suffered a shortfall.

- He describes the cost of nearly £40,000 to enhance his benefits as 'devastating'. And yet he would have had to make these additional payments over the period from 2003 in any case and this would have affected his financial position and his ability to make the decisions he did, such as buying a house. As he freely admits, he had to stop making the contributions within a few months as he found he was unable to afford them.
- There is no evidence to show Mr S has suffered a financial loss as a result of the error. What he has suffered is a loss of expectation in that he received a number of quotations during the period from March 2014 to December 2016 which overstated his prospective pension.
- The fact he received incorrect estimates of his pension does not entitle him to receive that level of pension.

21. Mr S did not accept the Adjudicator's Opinion and the complaint was passed to me to consider.
22. Mr S provided his 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 Mr S for completeness.
23. Mr S reiterated he made decisions on his financial situation based on what he had and any future pension income. He said he purchased a house based on his current earnings and future pension and that the future pension was totally inaccurate.
24. Mr S tried to obtain evidence to support his claim he had received overstated benefit illustrations prior to 2014; however, he was unable to do so.
25. He said he finds it hard to accept that he could continuously be given wrong information over many years but that when that comes to light an apology is sufficient.

### **Ombudsman's decision**

26. I understand Mr S' frustration with the position, but I have to consider his case based on the evidence available.
27. All the evidence that has been provided by Mr S, and the respondents, supports the position that his benefits were only overstated after March 2014, when NHS BSA received the completed AB54, and December 2016, after the meeting between Mr S and NWSSP, when it became clear the additional contributions should have ceased in August 2003.
28. I am unable to accept Mr S' claim that his pension was overstated for many years. I do not doubt Mr S' disappointment that his pension is significantly lower than he had been told, but the fact remains that it is his correct entitlement under the Scheme.

PO-25485

29. I am also not persuaded that he would have made significant financial decisions solely based on the overstated figures he received over a two-year period, particularly, as he admits, he held doubts about the accuracy of the figures.
30. With regard to any distress and inconvenience caused to Mr S, I consider the errors made to constitute maladministration. As a result, Mr S has suffered disappointment and also the inconvenience of having to take steps to resolve the position.
31. However, in the circumstances I do not consider these to have been such as to have caused Mr S significant distress and inconvenience. The benefit overstatement took place over a relatively short period and once Mr S had met with NWSSP the position was clarified and corrected quickly.
32. I note NHS BSA has apologised to Mr S and I consider that sufficient in this case.
33. I do not uphold Mr S' complaint.

**Anthony Arter**

Pensions Ombudsman  
28 January 2020