

Ombudsman's Determination

Applicant	Dr Y
Scheme	NHS Pension Scheme (The Scheme)
Respondents	NHSBSA

Outcome

1. I do not uphold Dr Y'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. Dr Y's complaint is that the estimate and Total Reward Statement (**TRS**) she received from NHSBSA differed greatly from the lump sum and pension she was awarded.

Background information, including submissions from the parties

4. On 1 August 1986, Dr Y joined the Scheme and her first period of service (with some breaks of membership in between) ended on 31 March 2000. One employment during this period was as a salaried General Practitioner (**GP**), from 6 April 1999 to 31 March 2000, at Vine Surgery.
5. On 1 April 2001, Dr Y joined the Scheme again, and left on 31 May 2004. Dr Y then re-joined from 1 January 2006, until choosing to retire on 7 August 2017.
6. On 24 April 2015, Dr Y received a statement of benefits from NHSBSA. It was calculated as at 31 March 2013, without any actuarial reduction for early retirement applied. After receiving this statement Dr Y explained that she chose to retire at an unspecified, later date.
7. In January 2017, Dr Y accessed an online TRS produced by NHSBSA, calculated as at 31 March 2015. The statement quoted a standard pension of £21,378.89 a year and a standard lump sum of £64,136.67, payable from the Scheme's normal pension age.

8. The statement included the caveat that “the current value of your NHS Pension Scheme benefits is there to provide an indication only.” Dr Y decided to apply for voluntary early retirement based upon the figures quoted on the TRS.
9. On 8 August 2017, Dr Y retired and requested the standard pension and lump sum. Dr Y subsequently received a statement outlining the exact value of her pension in payment. The pension was £11,479.44 a year and the lump sum was £37,315.44.
10. On 6 September 2017, Dr Y wrote to NHSBSA to highlight the discrepancy in the figures between the 2 previous statements and the benefits paid to her upon retirement. Dr Y explained that she thought this was unreasonable and that NHSBSA should honour the previously quoted amounts.
11. On 13 December 2017, NHSBSA wrote to Dr Y under stage 1 of the Scheme’s Internal Dispute Resolution Procedure (**IDRP**). It explained that a pay figure of £183,174.98 used in the TRS’s calculation was incorrect. NHSBSA said the TRS portal did not automatically flag this error up as Dr Y was potentially a high earner as a GP.
12. NHSBSA further explained that the error had occurred because Dr Y’s employer had incorrectly entered her service at Vine Surgery as part time, rather than as a full-time position. Therefore, the TRS uprated the pay figures from this role to a whole time equivalent. This error over-stated the value of Dr Y’s benefits. NHSBSA said it queried this pay information with Dr Y’s employer 4 times in February 2010, without ever receiving a response.
13. NHSBSA asserted it is reliant upon information provided by employers. It pointed out that Dr Y could have questioned the pay figure, as it bore no relation to the actual pay she had received. NHSBSA said that the error was only discovered whilst manually calculating Dr Y’s benefits and the employer had only rectified it after Dr Y had applied to retire.
14. On 1 February 2018, Dr Y wrote to NHSBSA and agreed that the pay figure was incorrect. However, as the 2017 TRS was in line with the 2015 statement, Dr Y was reassured it was accurate. Dr Y also suggested it was inadequate that NHSBSA had been aware of an error in 2010 and not previously resolved it.
15. On 14 May 2018, NHSBSA reiterated that administration is a partnership between employers and the Scheme. NHSBSA explained it only has access to a member’s record and it is the employer’s duty to keep this updated. The letter further noted that Dr Y had never queried the incorrect pay figure and that the Scheme can only pay benefits in accordance with the Regulations.

Adjudicator's Opinion

16. Dr Y's complaint was considered by one of our Adjudicators who concluded that no further action was required by NHS Pensions. The Adjudicator's findings are summarised below:-
- Dr Y's Scheme entitlement is dependent upon the statutory legislation that governs it. The fact that Dr Y was given incorrect statements by NHSBSA does not itself entitle Dr Y to receive the higher, incorrect pension benefits. Dr Y's actual entitlement does not alter and her benefits should be those set out in the legislation.
 - Dr Y could not reasonably have relied upon the statement as at 31 March 2013, and the TRS from 2017, just because the figures were in line with each other. The TRS clearly states that it "is there to provide an indication only" and Dr Y could have requested a more accurate retirement estimate from NHSBSA.
 - NHSBSA was entitled to rely on the information provided by the Employer in relation to Dr Y's pay and service as being accurate. In any event, Dr Y had sufficient information to have queried the pay figure used and ascertain the correct position. The incorrect pay figure is clearly displayed on the TRS, had she taken the time to properly consider it. For this reason, it was the Adjudicator's view that NHSBSA cannot reasonably be held responsible for the incorrect figures provided, which should have been evident to scrutiny. It was therefore the Adjudicator's Opinion that this complaint should not be upheld.
17. NHSBSA accepted the Adjudicator's Opinion. Dr Y did not accept the Adjudicator's Opinion and the complaint was passed to me to consider. Dr Y 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 Dr Y for completeness.

Ombudsman's decision

18. Dr Y does not accept NHSBSA's explanation about the origin of the inflated pay figure on her TRS. Dr Y does not believe that incorrect salary and service information from her employment at Vine Surgery in 1999/2000 was the reason for the discrepancy between the figures on her TRS and the value of her pension put into payment.
19. Dr Y has submitted a copy of a letter from NHSBSA, sent in April 2015, in support of her arguments. Dr Y believes that it supports her view that her income has always been substantially less than the TRS figure and NHSBSA should have taken more action to correct her pension records.

20. Dr Y further argues that “seeing ‘pay £183,174.98’ at the top of the TRS did not seem to mean anything” as it was so far removed from any salary she had earned. I do not find that it was reasonable for her to rely upon this information without questioning it with NHSBSA. I appreciate that Dr Y would not have in-depth knowledge about pensions and the Scheme.
21. However, Dr Y does not have to be a pensions expert to recognise that the pay figure on the TRS is substantially different to any salary she had previously received and that this could impact the value of her pension. I find that Dr Y was in a position to judge that it was unreasonable to rely on this information. Dr Y could have queried her salary details with NHSBSA at any point between receiving the TRS and deciding to retire.
22. NHSBSA has also made clear that employers are responsible for updating a member’s details and it is not its responsibility. This point is reiterated in the 24 April 2015 letter Dr Y has submitted with her comments to the Adjudicator’s Opinion. I do not find that NHSBSA is responsible for the errors that caused incorrect figures to be produced in the TRS.
23. I do not uphold Dr Y’s complaint.

Anthony Arter

Pensions Ombudsman
20 November 2018