

Ombudsman's Determination

Applicant	Mrs Y
Scheme	Electronic Data Systems 1994 Pension Scheme (the Scheme)
Respondents	EDS Trustee Limited (the Trustee)

Outcome

1. I do not uphold Mrs Y's complaint and no further action is required by the Trustee.

Complaint summary

2. Mrs Y has complained that she was sent an incorrect estimate of her retirement options in October 2015, on which she based her retirement plans. She was also sent an incorrect table of early retirement factors in February 2016, which compounded the error. In October 2018 she received a correct early retirement quotation, but this was 39% lower than the figures she received in 2015. Mrs Y wants the Trustee to honour the figures quoted in 2015.

Background information, including submissions from the parties

3. Mrs Y says that she agreed to leave her employment with her employer on redundancy terms with effect from 31 October 2015. Prior to leaving the company she requested from the Scheme's administrators, Equiniti, a pension quotation for retiring at age 55 in 2019. Equiniti issued a quotation on 15 October 2015 (**the 2015 quotation**) and in the covering letter said in bold type "**This estimate is for illustration purposes only and is not guaranteed.**" The 2015 quotation quoted an estimated pension of £11,581 a year payable from age 55.
4. Mrs Y says she checked the figures with the person who had sent them and asked for details of any penalties that would be applied if she were to retire later than age 55. Equiniti confirmed she could retire at age 60 on a full pension without any early retirement reduction being applied and sent her an early retirement factor (**ERF**) sheet so that she could plan her retirement.
5. In February 2018 Mrs Y contacted Equiniti to obtain updated figures for retirement at age 55. Mrs Y says after a prolonged and frustrating time Equiniti issued an updated

quotation on 20 June 2018. The June 2018 quotation stated an estimated pension of £7,064 a year payable from age 55.

6. Mrs Y says at the time she received the redundancy payment she had an option to invest £30,000 of her redundancy payment into the Scheme to buy an additional amount of pension. She did not take up this option as she felt that the pension quoted in the 2015 quotation was adequate. She would have taken up the option to buy additional pension if she had received the correct information.
7. The Trustee accepts that the estimated figures included in the 2015 quotation were incorrectly calculated and that these should have allowed for the applicable early retirement factors at the time. However, the 2015 quotation stated it was an estimate for illustration purposes and was not guaranteed. The Trustee also accepts that the ERF Table was misleading as it indicated no reduction was applied from age 60.
8. Mrs Y was sent a Leaver letter and Deferred Pension Statement in February 2016 which confirmed that the Normal Retirement Date was Mrs Y's 63rd birthday. The Deferred Pension Statement also quoted an estimated pension at date of leaving (31 October 2015) of £10,535 which was lower than the 2015 quotation. Mrs Y could have recognised at this point that the pension quoted was lower than the 2015 quotation.
9. The Trustee is legally obliged to pay the correct benefits and the mis-stated information in the 2015 quotation and the ERF table do not give rise to an automatic legal entitlement to the mis-stated benefits. There is no evidence that Mrs Y has suffered any actual financial loss as a result of the incorrect information. The Trustee notes that Mrs Y claims she would have paid some of her redundancy money into the Scheme but there is no evidence that she would have done so. Mrs Y will have enjoyed the benefit of having received the redundancy sum immediately on leaving work which would not have been the case if it were invested in the Scheme.
10. The Trustee accepts that the misinformation will have caused Mrs Y disappointment and a loss of expectation and have offered £1,000 for the distress and inconvenience caused.

Adjudicator's Opinion

11. Mrs Y's complaint was considered by one of our Adjudicators who concluded that no further action was required by the Trustee. The Adjudicator's findings are summarised below.
12. The Trustee has accepted that Mrs Y was provided with misleading information, so the question to be considered is whether Mrs Y has been disadvantaged as a result.
13. Mrs Y says that she has lost out financially as the correct pension figures for retirement at age 55 are some 39% lower than the figures provided in the 2015 quotation and she wants the Trustee to honour the original figures. But, as the Trustee has correctly pointed out, the Scheme can only pay the benefits to which Mrs

Y is entitled and there is no legal entitlement to the higher figure. It is also relevant that the 2015 quotation clearly stated, in bold type, that the quotation was for illustration purposes only and was not guaranteed. The Adjudicator also noted that the covering letter for the 2015 quotation, and also the letter in February 2016, enclosing the ERF Table, provided details of how to access the EDF Member Website and this being a source of further information. If Mrs Y had accessed this website it would have confirmed that the normal retirement date was her 63rd birthday.

14. Mrs Y also says that if she had been provided with the correct information at outset, she would have used some of her redundancy payment to buy additional pension in the Scheme. The Adjudicator accepted that this was a possibility but there was no evidence that Mrs Y investigated this option. It is also true that she has had the benefit of the redundancy payment in the intervening period. The Adjudicator was of the opinion that Mrs Y had not actually suffered a financial loss but had suffered a loss of expectation.
15. Mrs Y had, however, suffered some non-financial injustice as the realisation that her expected pension will be lower than anticipated will have caused her some distress. The Trustee had offered Mrs Y a payment of £1,000 to compensate for this distress and inconvenience which the Adjudicator considered was in line with any award that the Ombudsman may make. If Mrs Y wishes to take up this offer, she should contact the Trustee direct.
16. Mrs Y did not accept the Adjudicator's Opinion and the complaint was passed to me to consider. Mrs Y has 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 Y for completeness.
17. Mrs Y says when she asked for the pension quote in 2015 it was specifically to plan for her retirement and all of her financial planning has been based on these figures. Whilst she may have benefited from having access to the redundancy money there was a reason why she wanted the pension figures at the time as this was to ensure that the pension, she was due at age 55, would be sufficient for her needs. Based on the figures quoted, she made a decision not to put the redundancy money into the pension. She was aware that she could not revisit this at the later date, so the figures quoted were important in the decision process, otherwise she would have used the money to buy additional years.
18. Mrs Y does not feel that she should be the one to shoulder the outcome of the multiple mistakes made by the administrators. She had no clue in 2015 that the figures provided, or the ERF details contained errors and strongly disagrees with the Adjudicator's view that she should have checked the ERF basis via the Scheme's website. The reason she asked for details direct was to obtain accurate information and not rely on the details found on the Scheme's website.

19. Mrs Y says a decrease in the defined benefit pension should not occur at this stage and she has no scope to mitigate any of these factors; it is totally unfair that it should be deemed something she should just accept. To simply say that the figures provided in 2015 were estimated should not be a get out for the Trustee.

Ombudsman's decision

20. As explained in the Adjudicator's Opinion, the basic principle for negligent misstatement is that a scheme is not bound to follow incorrect information, for example, retirement quotes, transfer values or early retirement. A member is only entitled to receive the benefits provided for under the Scheme rules, that is those based on correct information accurately reflecting the Scheme rules.
21. I can only provide redress if it can be shown that financial loss or non-financial injustice has flowed from the incorrect information given. I am not, however, persuaded that Mrs Y has suffered a financial loss. She had an expectation to retire at age 55 and receive a pension of around £11,500 a year at age 55. This pension figure was based on an incorrect calculation and did not allow for an early retirement reduction to be applied. The correct pension at age 55 is £7,064 a year, so approximately £3,500 a year less than originally quoted. Mrs Y says that she has no scope to mitigate this loss and feels it is totally unfair that it should be deemed something she should just accept. I disagree, Mrs Y has had the use of the redundancy money since leaving her employer and has the opportunity to build up further pension benefit through either existing employment or future employment. Although Mrs Y may have wished to retire at age 55 it was no means a certainty and would be dependent on a number of other factors including her financial circumstances at the time.
22. I recognise that the realisation that the expected pension would be lower than anticipated would have caused Mrs Y some considerable distress and I sympathise with the position in which she finds herself. However, the Trustee has offered Mrs Y a payment of £1,000 in recognition of the distress and inconvenience she has suffered, which I find is reasonable and in line with our guidelines. If Mrs Y wishes to take up this offer, she should contact the Trustee direct.
23. I do not uphold Mrs Y's complaint.

Anthony Arter

Pensions Ombudsman
19 November 2019