

Ombudsman's Determination

Applicant	Ms L
Scheme	Local Government Pension Scheme (the Scheme)
Respondents	West Yorkshire Pension Fund (WYPF)

Outcome

1. I do not uphold Ms L's complaint and no further action is required by WYPF.

Complaint Summary

2. Ms L's complaint is that WYPF calculated the value of her Scheme pension entitlement incorrectly.

Background information, including submissions from the parties

3. The Scheme is a Defined Benefit (**DB**), workplace pension. Ms L is a member of the Lincolnshire Pension Fund (**LPF**) which is administered by WYPF.
4. On 11 April 2016, WYPF sent Ms L a redundancy estimate (**the Estimate**) of her Scheme entitlement stating she was entitled to a standard pension of £6,299.40 a year and a standard lump sum of £9,932.07.
5. On 27 May 2016, Stamford Town Council (**STC**), Ms L's employer, made her redundant and sent WYPF notification that Ms L was eligible for immediate, early retirement.
6. On 7 June 2016, WYPF sent Ms L a retirement quote (**the Quote**) stating she was entitled to a standard pension of £14,952.23 a year and a standard lump sum of £9,932.07.
7. On 21 June 2016, several events occurred that are summarised below:-
 - a. Ms L telephoned WYPF to query the entitlements stated in the Estimate and the Quote. She says that WYPF's representative reassured her that the figures were accurate.
 - b. Ms L returned her completed Pension Claim Form (**PCF**) to WYPF.

- c. WYPF acknowledged receipt of the PCF.
 - d. WYPF discovered that the calculation of the Quote incorrectly over-stated Ms L's entitlement.
 - e. WYPF telephoned Ms L to notify her of the error.
8. On 22 June 2016, WYPF sent Ms L a revised retirement quote. It stated that she was entitled to a standard pension of £6,340.37 a year and a lump sum of £9,932.07. WYPF also offered Ms L its "sincere apologies" for the error and for any upset and distress it had caused her.
9. On 1 August 2016, after further exchanges of correspondence, WYPF wrote to Ms L maintaining its apology for the error and providing an explanation of how the miscalculation occurred. WYPF also said that the disparity between the Estimate, the Quote and Ms L's correct entitlement should have been identified in the telephone call of 21 June 2016.
10. On 20 October 2016, Ms L complained under the Scheme's internal dispute resolution procedure (**IDRP**). Ms L's complaint is summarised below:-
- a. Ms L was not an expert on pensions and had wrongly assumed that the increase was related to her Final Salary benefits.
 - b. She had queried the stated figures and considered her options carefully before returning the PCF.
 - c. It was 'devastating' to learn that the Quote was significantly over-stated.
 - d. WYPF had not acknowledged the seriousness of her complaint.
11. On 22 December 2016, WYPF sent Ms L its Stage 1 IDRP response. WYPF said it had revised Mrs L's retirement quote as soon as the error was discovered. WYPF also said Ms L's entitlement must be calculated in accordance with the Local Government Pension Scheme Regulations 2013 (**the Regulations**). WYPF's representative offered Mrs L an award of £500 in acknowledgement of the significant distress and inconvenience she had experienced.
12. On 29 May 2017, Ms L asked for her complaint to be considered under IDRP Stage 2. In a number of separate submissions Ms L identified six 'disappointments' that clarified her complaint. MS L said that WYPF had breached its own timescales for providing its IDRP Stage 1 response in accordance with the Regulations. Ms L also said WYPF had dealt with her complaint in an unsatisfactory, disjointed manner. She argued that WYPF had not adequately explained who its representatives were and their roles.
13. On 16 August 2017, Lincolnshire County Council (**LCC**) provided the Scheme's Stage 2 IDRP response, in its capacity as the Stage 2 decision maker. LCC's response is summarised below:-

- a. The original data error had occurred because Ms L's Guaranteed Minimum Pension (**GMP**) was incorrectly recorded as a weekly figure, rather than an annual one, by a previous Administrator.
- b. Consequently, the Quote was greatly over-stated and the error was not identified by staff. Ms L's Scheme entitlement was corrected immediately after the error was discovered.
- c. The staff involved had received further training.
- d. LCC considered that all of the elements of Ms L's complaint had been addressed in WYPF's responses.

The Pensions Ombudsman's position on the provision of incorrect information

14. The basic principle for negligent misstatement (in the absence of any additional legal claim) is that a scheme is not bound to follow incorrect information, e.g. 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.
15. Broadly, the Ombudsman will provide redress if it can be shown that financial loss or non-financial injustice has flowed from incorrect information given. For example, the member may have taken a decision in the expectation of receiving the higher benefits which they would not otherwise have done, such as retiring early. The Ombudsman will also consider whether it is more likely than not that a member relied on the incorrect information to their detriment and that it was reasonable for them to do so. An example of this is where the member had already decided to take early retirement before receiving the incorrect information. In this case it is unlikely that any claim for financial loss would be upheld on that basis alone.
16. The above sets out the Ombudsman's views very generally on the application of, negligent misstatement. It is for guidance only; each case will turn on its own facts.

Adjudicator's Opinion

17. Ms L's complaint was considered by one of our Adjudicators who concluded that no further action was required by WYPF. The Adjudicator's findings are summarised below:-
 - a. Ms L agreed that she is not an expert on pensions and says that she telephoned WYPF to query the pension entitlement stated on the Quote. There was a large disparity between the entitlements stated in the Estimate and the Quote. The entitlement stated in the Quote is over double that stated on the Estimate.

- b. In spite of the verbal reassurance provided by WYPF about the Quote's accuracy, the Adjudicator said that Ms L should have queried her entitlement further with WYPF. Ms L should have learnt the correct position much sooner than she did.
 - c. Ms L says that she changed her plans for retirement and needed to seek alternative employment. However, as Ms L's redundancy was compulsory, she had no option other than to receive her Scheme entitlement in May 2016.
 - d. WYPF agreed that it provided Ms L with misinformation in the Quote. WYPF offered Ms L an award of £500 in acknowledgement of the significant distress and inconvenience she has experienced. In her submissions, Ms L acknowledges that her entitlement can only be calculated in accordance with the Regulations. However, she argues that WYPF should compensate her further for the distress and inconvenience she experienced in pursuing her complaint.
 - e. The Adjudicator appreciated that Ms L was disappointed to learn her pension entitlement was substantially different from the figures stated in the Quote. Ms L found the complaints process frustrating and the responses she received did not meet her expectations. WYPF did not meet the 2-month deadline stipulated in Regulation 75 of the Regulations for its IDRP Stage 1 response. Its response was received 4 days outside the deadline.
 - f. However, the award of £500 offered by WYPF is appropriate based on the facts. The distress and inconvenience Ms L experienced falls below the level where an award for serious distress and inconvenience would be appropriate. Consequently, the Adjudicator considered it unlikely that an Ombudsman would make a higher award to Ms L if the case were to be formally determined.
18. Ms L did not accept the Adjudicator's Opinion and the complaint was passed to me to consider. Ms L 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 Ms L for completeness.

Ombudsman's Decision

19. In her comments, Ms L disagrees with Adjudicator's view that she should have queried the contents of the Quote further. Ms L says that her Scheme entitlement was complicated. She says that she understood that the Estimate was an interim calculation subject to revisions after final salary information was received by WYPF. This is correct. However, given that there is no difference between the salary figures used in the Estimate and the Quote I do not see that this is an argument that Ms L can rely upon.
20. Ms L says that her retirement came at a time when she had caring responsibilities for a relative and she was relieved by the higher entitlement in the Quote. In spite of being calculated only two months apart, with the same salary information, there is a large disparity between the entitlement stated in the Quote and the Estimate.

Consequently, I agree with the Adjudicator's view that Ms L should have ascertained the correct position much earlier than she did.

21. Ms L also says that the seriousness of WYPF's errors have not been acknowledged and its conduct of the IDRPs was "extremely shoddy". I appreciate that Ms L found the circumstances of her complaint distressing. However, I agree with the Adjudicator's view that WYPF's errors were such that they caused Ms L significant distress and inconvenience. Consequently, an award of £500 is appropriate in the circumstances.
22. Ms L should contact WYPF's if she wishes to accept its offer.
23. I do not uphold Ms L's complaint.

Anthony Arter

Pensions Ombudsman
4 September 2019