

## Ombudsman's Determination

Applicant	Mrs Y
Scheme	NHS Pension Scheme ( <b>the Scheme</b> )
Respondents	Croydon Health Services NHS Trust ( <b>the Trust</b> ) NHS Business Services Authority ( <b>NHSBSA</b> )

## Outcome

1. I do not uphold Mrs Y's complaint against NHSBSA and no further action is required by NHSBSA.
2. Mrs Y's complaint against the Trust is partly upheld, but there is a part of the complaint I do not agree with. To put matters right (for the part that is upheld) the Trust should pay Mrs Y £500 compensation in recognition of the clear distress and inconvenience which she has experienced in having to deal with this matter.
3. My reasons for reaching this decision are explained in more detail below.

## Complaint summary

4. Mrs Y complains that:
  - a) the Trust and NHSBSA provided her with incorrect information about the retirement benefits available to her from the Scheme; and
  - b) the actual pension and tax free lump sum payable to her were significantly lower than anticipated
5. She contends that she should either receive the level of retirement benefits she was originally promised or compensated for loss of earnings and the additional pension which she would have accrued if she stayed in employment until age 60.

## Background information, including submissions from the parties

6. NHSBSA sent Mrs Y, in June 2010, a benefit statement showing that as at 3 June 2010:

- a) she had accrued 16 years 55 days' pensionable service in the Scheme (including 4 years 7 days' purchased added years) and her pension and lump sum entitlement were £7,860 pa and £23,581 respectively; and
- b) her estimated pension and lump sum at age 60 in 2014 were £12,431 pa and £37,294 respectively based on total pensionable service of 25 years 198 days

7. In June 2011, the Trust produced three benefit estimates for Mrs Y using NHSBSA's pensions-on-line (**POL**) facility showing that:

Last day of pensionable employment	Pensionable service at last day of employment	Annual Pension	Lump sum
30/09/2011	19 years 227 days	£10,916.65	£32,749.95
30/04/2012	20 years 277 days	£11,549.22	£34,647.66
30/04/2014	24 years 61 days	£13,445.38	£40,336.14

8. Mrs Y retired on 25 October 2011 with a pension of £8,901.37 pa and a lump sum of £26,953.88 (later adjusted to £8,909.46 pa and a lump sum of £26,965.95 after the Trust notified NHSBSA of a small amendment to Mrs Y's pensionable pay). These figures were significantly lower than what she was expecting to receive, i.e. an estimated pension of £10,916.65 pa and a lump sum of £32,749.95 based on a retirement date of 30 September 2011.
9. Mrs Daly says that if she had known her benefits would be an annual entitlement of £8,901.37 and a lump sum of £26,953.88, instead of the higher amounts quoted, she would not have retired on 30 September 2011 and continued to work until she attained age 60 (in 2014).

## Adjudicator's Opinion

10. Mrs Y's complaint was considered by one of our Adjudicators who concluded that further action was required only by the Trust.
11. The Adjudicator's findings (summarised briefly below) were that the complaint should be partly upheld against the Trust and not NHSBSA because:
- a) it was clear from the evidence that the Trust issued Mrs Y with incorrect (early) retirement quotations in June 2011, and this constituted maladministration on the part of the Trust;
  - b) the error was caused by the Trust submitting duplicate employment details to NHSBSA (representing further maladministration on their part) which resulted in Mrs Y's pensionable service (including added years purchased) being overstated in the estimates;

- c) Mrs Y asked for three quotations with different retirement dates which suggested that she was indeed looking at a number of options and chose one on the basis of the information which the Trust provided in June 2011;
  - d) Mrs Y ought reasonably to have recognised that the quotations provided in June 2011 were incorrect because she had previously purchased added years and so presumably understood the correlation between reckonable service and the amount of pension she might receive which were clearly shown on the quotations;
  - e) Mrs Y accepted that she should have noticed the discrepancies in her letter of 23 January 2014;
  - f) Mrs Y suffered considerable distress and inconvenience as a consequence of the maladministration identified and the Adjudicator considered the £500 compensation offered by the Trust during the course of his investigation as a gesture of goodwill in recognition this to be equitable; and
  - g) the complaint cannot be upheld against NHSBSA because it is the Trust's responsibility to provide them with Mrs Y's correct pensionable pay/service details and any changes to her contracted hours
12. Mrs Y did not accept the Adjudicator's Opinion and the complaint was passed to me to consider. Mrs Y provided her further comments many of which do not change the outcome. I agree with the Adjudicator's Opinion, summarised above, and I will therefore only respond to the key points made by Mrs Y for completeness.

### **Ombudsman's decision**

13. The Trust issued Mrs Y with incorrect (early) retirement quotations in June 2011. This clearly constitutes maladministration. However, this finding, in itself is not enough to enable me to uphold the complaint. Although Mrs Y received incorrect details of the benefits, it does not confer on her a right to the benefits erroneously quoted.
14. Mrs Y maintains that she would not have left the employment of the Trust until age 60 if the incorrect quotations had not been issued. The Trust can be expected to have realised that Mrs Y was likely to take a decision based on the information they provided. That Mrs Y had asked for three quotations with different early retirement dates leads me to conclude that she was looking at a number of options and chose one on the basis of the information which the Trust provided. I therefore believe that it is highly likely that had Mrs Y received the correct information she would not have decided to resign from the Trust on 30 September 2011.
15. But I have some doubt as to the reasonableness of Mrs Y relying on benefit estimates which she received in June 2011 for retirement on 30 September 2011, for essentially the same reasons given by the Adjudicator in his Opinion (as summarised above). I do not therefore consider that Mrs Y had acted to her financial detriment based on a reasonable belief that the figures were correct. Consequently, I do not consider that

the Trust should compensate Mrs Y for any actual financial harm she has suffered as a result of the incorrect quotations.

16. However, the discovery that her pension was to be significantly less than she expected, when it was too late for her to adjust her plans, will have caused Mrs Y significant distress and inconvenience. The Trust has offered her a compensation payment of £500 as a gesture of goodwill which she has declined because she does not feel it will be “enough of an incentive” for the Trust to take her complaint seriously.
17. My awards in relation to distress and inconvenience, however, are modest (generally in the region of £500 to £1,000) and are not intended to punish the respondent. In my opinion, the compensation amount already offered by the Trust to Mrs Y of £500 is therefore entirely reasonable in the circumstances.
18. I consequently partly uphold Mrs Y’s complaint against the Trust and not against NHSBSA.

## **Directions**

19. I direct that the Trust within 21 days of the date of this Determination shall pay Mrs Y £500 in compensation.

**Anthony Arter**

Pensions Ombudsman  
17 June 2016