

## Ombudsman's Determination

Applicant	Ms D
Scheme	Smith & Nephew UK Pension Fund ( <b>the Fund</b> )
Respondent	AON Hewitt ( <b>AH</b> )

## Outcome

1. I partly uphold Ms D's complaint.
2. My reasons for reaching this decision are explained in more detail below.

## Complaint summary

3. Ms D is complaining that AH, the Fund administrators paid her an incorrect lump sum and pension. She says that she relied on the incorrect figures when deciding to retire at age 55. Ms D has agreed to repay the part of the cash sum that she was not entitled to. However, she contends that she should be entitled to the incorrectly quoted pension of £5,534.69 per annum.

## Background information, including submissions from the parties

4. Ms D joined the Fund on 9 March 1992.
5. Ms D requested a quote of her Fund benefits payable at age 55.
6. On 16 June 2014 AH sent Ms D an incorrect illustration of her retirement benefits at age 55 and 65. The covering letter stated :

"The benefits quoted below are estimated and are not guaranteed".

7. The incorrect illustration was as follows:-
  - A full pension of £6,861.07 per annum or a cash sum of £15,685.67 and residual pension of £5,534.69 per annum (age 55).
  - A full pension of £6,861.07 per annum or a cash sum of £36,897.90 and residual pension of £5,534.69 per annum (age 65).

8. Based on the incorrect illustration, Ms D says that she decided to request early retirement with effect from 2 August 2014 at age 55 and opted to receive a cash sum and residual pension.
9. On 29 July 2014 Ms D received an overpayment in respect of her cash sum. She subsequently agreed to repay the part of the cash sum that was overpaid in error.
10. On 9 September 2014 Ms D received a letter from AH stating that the benefits quoted to her on 16 June 2014 were incorrect. They said that the correct figures were as follows:-
  - A full pension of £2,607.21 per annum or a cash sum of £15,685.67 and residual pension of £2,352.85 per annum (age 55).
  - A full pension of £6,861.07 per annum or a cash sum of £36,897.90 and residual pension of £5,534.69 per annum (age 65).
11. AH apologised to Ms D for the error and offered her £500 compensation for the distress and inconvenience caused.
12. Mr D did not accept AH's compensation offer and referred her complaint to the Pensions Ombudsman. AH subsequently withdrew their offer.
13. In response to her complaint AH stated that Ms D had received her quotes for retirement at age 55 and 65 on the same day and when comparing them, she should have noticed that the figures for residual pension were the same. However, Ms D did not query the figures with AH.
14. Following the intervention of this office, AH have agreed to reinstate their compensation offer of £500 to Ms D.

### **Adjudicator's Opinion**

15. Ms D's complaint was considered by one of our Adjudicators who concluded that no further action was required by AH. The Adjudicator's findings are summarised briefly below:-
  - AH has agreed that they provided incorrect retirement figures to Ms D. So there is no dispute that a problem has occurred.
  - Ms D maintains that she should be entitled to the incorrectly quoted pension of £5,534.69 per annum. However, the Adjudicator did not think that it was reasonable for Ms D to have relied on the incorrect retirement quote of 9 September 2014. This is because; the annual pension figures quoted for retirement ages of 55 and 65 were the same. The Adjudicator therefore considered that she ought to have known the figures were incorrect and to have at least queried it with AH. Further, Ms D has not provided any evidence that she relied on the incorrectly quoted retirement figures in a way that was detrimental to

her. In any event, she is only entitled to the benefits calculated in accordance with the Fund rules.

- Ms D therefore has not suffered actual loss and has most likely suffered a loss of expectation and typically this is redressed with compensation for distress and inconvenience.
  - AH were at fault in providing incorrect information. The provision of incorrect figures is unacceptable. Providers generally expect they will be relied on. Clearly where figures are wrong they cause inconvenience.
  - AH has agreed to reinstate their offer of £500 to Ms D for the distress and inconvenience caused to her by their error in providing incorrect retirement figures. The Adjudicator thought that this was sufficient redress; as it is in line with what the Ombudsman would normally award in similar cases.
  - It was therefore the Adjudicator's opinion that this complaint should be partly upheld.
16. Ms D did not accept the Adjudicator's Opinion and the complaint was passed to me to consider. Ms D has provided her further comments 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 Ms D for completeness.
17. Ms D has not provided any new evidence. She maintains that as a lay person she would have not realised the error. She says she may have noticed that the annual pension figures quoted for retirement ages 55 and 65 were identical but she was anticipating receiving a pension of approximately £5,000 per annum at age 55, so the incorrect pension figures seemed correct.

### **Ombudsman's decision**

18. Ms D says that she would have not made a decision to retire had she been provided with correct figures. It is difficult to determine what someone might have done if presented with different information at the time of making a significant decision such as early retirement. However, Ms D acknowledges that she had noticed the annual pension figures quoted at retirement ages 55 and 65 were the same. I consider that she ought to have then queried those figures as they were clearly incorrect. Had she done so, she would have known the correct position regarding her pension from the outset.
19. However, I find that it was maladministration by AH in providing incorrect information to Ms D in June 2014. As a direct consequence of their error, Ms D has suffered distress and disappointment rather than actual financial loss. It is, nevertheless, right that this should be recognised and I am upholding her complaint to this extent.

20. Therefore, I partly uphold the complaint.

**Directions**

Within 21 days of the date of this determination, AH shall pay the sum of £500 to Ms D in recognition of the significant distress and inconvenience she has suffered as a consequence of their maladministration identified above.

**Anthony Arter**

Pensions Ombudsman  
7 February 2017