

## Ombudsman's Determination

Applicant	Mr Y
Scheme	Teachers' Pension Scheme
Respondents	Teachers' Pensions Royal Borough of Greenwich

### Outcome

1. I do not uphold Mr Y's complaint and no further action is required by Teachers' Pensions (**TP**) or the Royal Borough of Greenwich (**Greenwich**).
2. My reasons for reaching this decision are explained in more detail below.

### Complaint summary

3. Mr Y has complained that TP is seeking a refund of overpaid pension. He says that he was unaware that his pension could be affected by his earnings from teaching after retirement.

### Background information, including submissions from the parties

4. Mr Y was a member of the Teachers' Pension Scheme (**TPS**). He retired on 1 September 2002 and his TPS pension commenced. Mr Y was immediately re-employed as a teacher and so his pension was subject to abatement if he earned more than the annual permitted amount.
5. Mr Y was given a certificate of re-employment (**COR**) when he retired. He has provided a photocopy of the COR, which includes his annual "salary of reference" (£37,116) and is headed in bold type:

**"Important: You should read Leaflet 192, which explains the effects of future earnings on your pension.**

**If you are *only* in receipt of an actuarially reduced pension it is not necessary to complete this form but you should read Leaflet 192."**

The COR's footer, also in bold type, says:

**"If you are re-employed and your index-linked salary of reference minus your annual salary leaves a balance which is less than your annual pension(s), you can only continue to receive your pension up to the balance. Thereafter, it will be suspended until the start of the next tax year (examples of calculation are given in Leaflet 192.)"**

**If you are in receipt of any other pensions, resulting from your teaching and which Teachers' Pensions are not administering, then these pensions must be added to the annual pension quoted above, before assessing whether your pension is affected."**

6. Mr Y accepts that he completed the form and signed it, but says he was unaware of the provisions set out in bold type on the form and did not know what his salary of reference was. Mr Y also says that Leaflet 192 was not brought to his attention. Mr Y sent the completed and signed COR to Greenwich, but it did not reach TP. What happened to the COR cannot be established due to the passage of time.
7. Mr Y did not complete any more COR forms and his pension was not abated when it should have been. This came to light in 2011 when TP undertook a special exercise to identify re-employed teachers whose earnings had not been reported to TP. Much correspondence ensued, with TP pressing Mr Y to refund the overpayment of pension and Mr Y saying that the problem was not of his making. However, Mr Y made two partial repayments, which he said were made without any admission of liability.
8. On 28 August 2013, TP wrote to Mr Y warning him that as no repayment plan had been agreed it would deduct the outstanding amount (£1,267.85) from his pension. Mr Y's re-employment ended in March 2016 and he received an additional pension and lump sum. TP deducted the outstanding amount from Mr Y's lump sum payment, but Mr Y objected so the amount withheld was paid to him and TP said it would await the outcome of his complaint.
9. Mr Y says that TP's letter to him dated 6 February 2013, which confirmed that TP did not receive the COR from Greenwich, proves that the overpayment arose through no fault of his. Mr Y also refers to his letter to the Department of Education dated 18 August 2014, in which he said that TP should have been aware of his re-employment as he continued to pay TPS contributions.
10. Mr Y says that he has been treated in an appalling fashion by TP since the overpayment came to light and should receive compensation for the distress and inconvenience caused by this.
11. The TPS Regulations require teachers who are re-employed after retirement to provide the Secretary of State (in practice, this means TP) with details of their

employment and earnings. TP says that although it receives annual returns from teachers' employers, and re-employed teachers may continue to pay TPS contributions, it needs a completed COR every year to ensure compliance with the TPS Regulations. Retired teachers are sometimes re-employed by more than one employer, not all of which are TPS employers, and TP says a COR provides all the information required by the TPS Regulations.

## **Adjudicator's Opinion**

12. Mr Y's complaint was considered by one of our Adjudicators who concluded that no further action was required by TP or Greenwich. The Adjudicator's findings are summarised briefly below:
  - It was unfortunate that TP did not receive the COR from Greenwich in 2002, but over the following nine years Mr Y took no steps to tell TP about his earnings.
  - The COR completed by Mr Y warned him of the abatement provisions and TP's requirement for annual earnings information, as well as referring to Leaflet 192.
13. Mr Y did not accept the Adjudicator's Opinion and the complaint was passed to me to consider. Mr Y provided his 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 Mr Y for completeness.

## **Ombudsman's decision**

14. I have difficulty in accepting Mr Y's assertion that he was unaware of the prominent warnings contained in the COR signed by him. If Mr Y signed the COR without reading it, he has to bear the responsibility for that.
15. Mr Y considers that TP could devise a better system, by checking on contributions received and issuing COR forms to teachers that might be affected by abatement. However, these suggestions for improvement do not change the facts, which are that Mr Y was aware, or should reasonably have been aware, of abatement and what he had to do concerning it. He took no action over a long period and TP did not act improperly in seeking repayment.
16. TP's letters were not impolite, and Mr Y could have complained through the TPS internal dispute resolution procedure (**IDRP**) in April 2012, when TP sent him its decision. Mr Y subsequently sought assistance from the Pensions Advisory Service, but decided against making an IDRP complaint as he wanted to continue his correspondence with TP. Mr Y eventually made an IDRP complaint in August 2014, so much of the delay that he found stressful was of his own making.

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17. Therefore, I do not uphold Mr Y's complaint.

**Anthony Arter**

Pensions Ombudsman

17 June 2016