

Ombudsman's Determination

Applicant	Mrs T
Scheme	NHS Pension Scheme (the Scheme)
Respondents	Chesterfield Royal Hospital NHS Foundation Trust (the Trust) NHS Business Services Authority (NHSBSA)

Outcome

1. I do not uphold Mrs T's complaint and no further action is required by the Trust and NHSBSA.
2. My reasons for reaching this decision are explained in more detail below.

Complaint summary

3. Mrs T is complaining about the Trust and NHSBSA because she is unhappy about the reduction applied to her pension. She says that she was not informed that she would lose her special class status if she retired before age 55, and the effect this would have on her pension.

Background information, including submissions from the parties

4. Mrs T was a member of the 'special class' in the Scheme. She says that she was considering retiring early so, at the end of March 2013, she met with staff from the pensions department at the Trust (the **March 2013 Meeting**). Mrs T was aged 50 at the time.
5. There are no records of the March 2013 Meeting, but Mrs T says that she was not informed that, if she retired before age 55, she would lose her special class status and entitlement to a retirement age of 55. This meant that, if she retired before age 55, her pension benefits would be calculated based on a normal retirement age of 60.
6. NHSBSA and the Trust provided numerous retirement quotations to Mrs T from 2013 – 2014. These show that there would be a significant reduction in her pension if she retired before age 55.
7. An actuarially reduced retirement benefit quotation dated 14 November 2013, showed that Mrs T could receive a pension of £7,579.79 per annum and a lump sum

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of £25,861.80 if she retired early on 31 March 2014 (based on pensionable pay of £31,327). Mrs T could receive a pension of £7,872.36 per annum and a lump sum of £26,633.48 if she retired early on 18 November 2014 (also based on pensionable pay of £31,327). However, if she stayed in the Scheme until her normal retirement age, she could receive an annual pension of £11,958.97 and a lump sum of £35,876.92.

8. Mrs T received other estimates dated 23 and 28 January 2014.
9. Mrs T retired on 25 May 2015. She was awarded a pension of £8,384.44 per annum and a lump sum of £28,212.99 (based on pensionable pay of £32,257.85).
10. Mrs T says that she received lower benefits than she expected. She complained to NHSBSA and the Trust that she had not been informed that she would lose her special class status and receive a reduction in her pension.
11. The complaint was not upheld by NHSBSA and the Trust.

Adjudicator's Opinion

12. Mrs T's complaint was considered by one of our Adjudicators who concluded that no further action was required by the Trust and NHSBSA. The Adjudicator's findings are summarised briefly below:
 - NHSBSA and the Trust do not act as financial advisers; their role is to provide information to members which would help those members make a decision. In this manner, they are different to independent financial advisers. If Mrs T did not ask about her special class status, then it is unlikely that NHSBSA or the Trust would assume that she needed information about it.
 - There is no written record of the March 2013 Meeting Mrs T had with the pensions department, but the Pensions Manager recalls Mrs T visiting the department. Mrs T has confirmed that she did not raise the issue of special class status, so I cannot say that the actions of the Trust amount to maladministration. The Trust would have provided the information that Mrs T requested at the time.
 - Mrs T may have been considering retirement in March 2013, but she did not actually retire until May 2015.
 - NHSBSA and the Trust provided several estimates of the pension Mrs T could receive if she were to retire before age 55, at age 55, and at age 60. These showed the difference in what she could expect to receive depending on when she retired. Mrs T was therefore made aware that there would be a reduction in her pension if she retired early.
13. Mrs T did not accept the Adjudicator's Opinion and the complaint was passed to me to consider. Mrs T has provided further comments but these 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 T for completeness.

Ombudsman's decision

14. Mrs T says that the Trust and NHSBSA failed in their duty of care to provide basic information. She says that the estimates received do not mention that she would lose special class status. She had a heart attack and that is part of the reason she could not continue working.
15. I do not find that the Trust failed in its duty to provide information to Mrs T. They were required to provide her with accurate projected benefit statements and I find that they did so. The comparison between the benefit available at Mrs T at normal retirement age and the actuarially reduced benefit to which she was entitled if she retired before she was 55 was made very clear in the quotations which she received. Even if the Trust did not mention to Mrs T, in the March 2013 meeting, that the early retirement benefit calculation used aged 60 as its starting point rather than age 55, that, in itself, does not amount to maladministration. The right to retire on unreduced benefit at age 55 is conditional on the member still being in service at that age. From the written benefit illustrations provided, I am satisfied that the monetary effect of retiring earlier than age 55 was clearly explained to Mrs T. There is no evidence that she was misinformed.
16. I am satisfied that Mrs T is receiving the pension that she is entitled to under the rules governing the Scheme, and it is commensurate with the estimates she received from the Trust and NHSBSA.
17. Therefore, I do not uphold Mrs T's complaint.

Karen Johnston

Deputy Pensions Ombudsman
14 June 2017