

Ombudsman's Determination

Applicant	Dr L
Scheme	Teachers' Pension Scheme (the Scheme)
Respondent	Teachers' Pensions (TP)

Outcome

1. I do not uphold Dr L's complaint, and no further action is required by TP.

Complaint Summary

2. Dr L has complained that TP caused delays to the processing of her application for death benefits, following the death of her partner Dr T. As a result of the delays, she received a 45% tax charge.

Background

3. The sequence of events is not in dispute, so I have only set out the salient points.
4. On 15 May 2019, Dr T died. At the time of his death, he was still in pensionable service.
5. On 26 February 2020, Dr L contacted TP and notified it of Dr T's death. She was referred to TP's website to download application forms for death benefits.
6. On 14 May 2020, Dr L signed and returned a formal application for death benefits to TP. The application form included a declaration section, which stated:

"I understand that if the lump-sum Death Grant is paid more than two years after the date Teachers' Pensions first became aware of the death, the payment will be subject to tax."
7. On 18 May 2020, TP received Dr L's formal application for death benefits along with a death certificate for Dr T.
8. On 2 June 2020, TP wrote to Dr L. It explained that it required further information from Dr T's former employer before the application could be processed. It also explained that further information was required by Dr L in order to establish her entitlement to a partner pension.

9. On 10 June 2020, Dr L contacted TP regarding the information it requested. TP informed Dr L about the details required to establish entitlement to a partner pension.
10. On 19 January 2021, Dr L contacted TP explaining that she was overwhelmed by the process and needed help. TP reissued a copy of the letter that was issued on 2 June 2020.
11. On 21 January 2021, TP sent another request to Dr T's former employer for the information it required.
12. On 27 January 2021, TP sent a letter to Dr L confirming that it was still awaiting a reply from Dr T's employer regarding completion of his final service and salary information.
13. On 16 March 2021, TP informed Dr L that it had received the information it had requested from Dr T's former employer. It also listed the documents it still required from Dr L, which included a certified copy of the Decree Absolute to prove that Dr T was divorced at the time of his death.
14. On 16 April 2021, Dr L sent documents to TP including the Decree Absolute, which was written in German. Dr L provided a translation to English of the relevant parts of the Decree Absolute. These documents were received by TP on 19 April 2021.
15. In August 2021, Dr L called TP to request an update on her application. TP informed Dr L that it required a fully translated copy of the original Decree Absolute.
16. On 21 August 2021, TP sent Dr L a letter confirming that it required a translated Decree Absolute. It apologised for the inordinate delays it had caused.
17. In September 2021, Dr L appointed a solicitor in Germany to obtain a copy of the original Decree Absolute.
18. In September 2022, Dr L received a copy of the original Decree Absolute. This was delayed due to backlogs caused by Covid-19.
19. On 10 October 2022, Dr L sent the original Decree Absolute with a translated copy to TP.
20. On 25 October 2022, TP wrote to Dr L to request a utility bill predating Dr T's death by at least two years. The utility bill that Dr L had provided in April 2021 was not sufficient.
21. On 11 November 2022, Dr L sent the requested utility bill to TP.
22. On 16 November 2022, TP sent a letter to Dr L confirming that she was entitled to receive a death grant. The letter also stated:

“Under HM Revenue & Customs (**HMRC**) Regulations any death lump sum payable more than 2 years after Teacher's Pensions was notified of the death becomes subject to a special lump sum death benefits charge of 45%.

As per HM Revenue & Customs procedure, the value of the special lump sum benefits charge can be deducted from the death grant payable.

The death grant of £204,237.00 has been taxed at 45% giving a deduction of £91,906.65 leaving a death grant amounting to £112,330.35. This will be paid to your bank account in the next few working days. Receipt need not be acknowledged.”

23. On 12 January 2023, Dr L raised a formal complaint with TP. She said there were delays to the processing of her application that were caused by TP. The complaint was acknowledged by TP on 16 January 2023.
24. On 2 February 2023, TP responded to Dr L’s formal complaint.
25. On 14 February 2023, Dr L invoked the Scheme’s Internal Dispute Resolution Procedure (**IDRP**) as she remained unhappy with TP’s response.
26. On 2 March 2023, the Department for Education (**DfE**) provided its IDRP response. It was satisfied that the regulations had been applied correctly, and it did not uphold Dr L’s complaint.

Summary of Dr L’s position:-

- TP delayed the processing of her application for death benefits. As a result, she incurred a 45% tax charge which she wants reimbursed.
- TP had all the required documents to conclude the application process in April 2021, which would have been well within the two-year period.
- TP has a duty of care towards their members and beneficiaries, especially in times when they suffer from bereavement. While it is true that the declaration section of the death benefit application form included a fine print of the two-year tax rule, TP did not communicate the tax rule or that a delay to the process could result in a tax charge at any other point during the process.
- TP also failed to check the documents she had submitted in April 2021.
- Personal circumstances following the death of Dr T made it very difficult for her to navigate the process without support. Due to Covid-19, it also took a while for her to receive the Decree Absolute from the courts in Germany. She considers that most of the time elapsed due to circumstances outside of her control. She acted as swiftly as possible under the circumstances, and did not cause the prolonged processing time.
- She is disappointed that TP did not make more effort to support her, especially as she had called it in January 2021 to explain that she was overwhelmed by the process.

Summary of TP's position:-

- The Scheme is a statutory scheme administered by TP on behalf of DfE. It is therefore bound by the Teachers' Pension Regulations and can only act in accordance with the provisions within those regulations. Payments made outside of the tax rules are classed as unauthorised and charges are payable.
- Under HMRC guidance and Section 206 of the Finance Act 2004, if a payment of a death grant is made more than two years after TP became aware of the death, the lump sum is referred to as an 'unauthorised payment', subject to an unauthorised payment charge at the recipient's marginal tax rate, which is 45% in Dr L's case.
- Information about the potential tax charge was provided in the death benefit application form and it should have been apparent that all relevant information must be received within two years to enable the death grant to be paid without a tax charge.
- It has acknowledged that it did not request a translated copy of the Decree Absolute in a timely manner. However, it does not consider that it can be held responsible for the delays Dr L has experienced in acquiring the documentation required to process the application.
- It has interrogated HMRC's guidance on tax charges on payments from registered pension schemes, and it can confirm that the death grant was correctly taxed at 45%, as it was Dr L's recorded tax code.

Adjudicator's Opinion

27. Dr L's complaint was considered by one of our Adjudicators who concluded that no further action was required by TP. The Adjudicator's findings are summarised below:-

- TP acknowledged that it caused a delay to the processing of Dr L's application of four months, as it did not review the documentation that was provided by Dr L on 16 April 2021 until she contacted it in August 2021. In the Adjudicator's view, this delay was unreasonable and amounted to maladministration.
- The Adjudicator did not consider that TP was responsible for any financial loss that Dr L incurred as a result of her death benefit lump sum being paid more than two years after TP was informed of Dr T's death, as it did not cause the main delays which resulted in the tax charge.
- Once TP received Dr L's application on 14 May 2020, it wrote to Dr L and requested further information which it required to proceed with the application on 2 June 2020. Dr L did not provide the requested information until 16 April 2021. The Adjudicator said that she sympathised with the difficult position that Dr L was in, however, in her opinion TP could not be held responsible for the time that elapsed

prior to it receiving the information that it had requested, as it could not proceed without it.

- The Adjudicator was of the opinion that it would have been better practice by TP to contact Dr L again when it did not receive the information it requested after a reasonable amount of time. However, it was not required to do so, and in her view, it would not necessarily have reduced the time it took to process Dr L's application in any material way.
- When Dr L contacted TP in August 2021, she was informed that TP required a fully translated copy of the Decree Absolute to proceed with her application. The translated version was only provided by Dr L on 10 October 2022, which was more than seven months after the two-year deadline for the tax charge.
- Dr L was informed that a tax charge would be due if the death benefit lump sum was paid more than two years after TP became aware of Dr T's death in the formal application she had completed and signed.
- The Adjudicator noted that Dr L may have acted more urgently if she had been reminded of the potential tax charge later on in the process, however, TP was not required to do so. It was also unfortunate that Dr L experienced delays in acquiring the Decree Absolute due to the Covid-19 pandemic, but in the Adjudicator's opinion, TP could not reasonably be held responsible for these delays.
- TP failed to recognise that the utility bill that had been provided in April 2021 did not meet its requirements when it carried out its first review of the information it received from Dr L in April 2021, and it did delay the processing of Dr L's application further. However, by the time that TP requested a new utility bill in October 2022, the deadline for the tax charge had already passed by a significant amount of time, and in the Adjudicator's view, it would not have made any material difference if the utility bill had been requested any sooner.
- The amount of tax payable is determined by HMRC and TP is required to follow the instructions set out by HMRC and the Finance Act 2004. It was the Adjudicator's view that TP acted in accordance with legislation. TP also completed the final steps of the processing of Dr L's application in a timely manner when it had received all of the information it had requested.
- It was the Adjudicator's view that the degree of non-financial injustice which Dr L has suffered due to maladministration by TP was nominal, and therefore it did not reach the threshold for the minimum award.

28. Dr L did not accept the Adjudicator's Opinion, and the complaint was passed to me to consider. Dr L submitted further comments in response to the Opinion. In summary she said:-

- She submitted the Decree Absolute in its original language in April 2021, and she received no immediate indication from TP that this was insufficient or required translation.
- The first written request for a translated version of the Decree Absolute was only made in August 2021. TP did not inform her that translated documents would be required prior to this at any point and it remains unclear why the version submitted in April 2021 was deemed insufficient.
- TP chose to communicate exclusively by post, which significantly prolonged the timeline of correspondence.
- TP did not inform her that the utility bill that was provided in April 2021 was insufficient until October 2022. The delay in reviewing the submitted documents was entirely unreasonable.
- TP's letter dated 2 June 2022 stated that only one piece of evidence was required. She submitted both a joint utility bill and a joint bank account statement. It is therefore unclear why the additional evidence was requested and why the bank statement was not considered sufficient.
- TP has not provided proof of payment to HMRC.
- TP caused the death benefit lump sum to be paid more than two years after the notification. It delayed checking the documents she provided and acquiring information from Dr T's employer.
- She understands that TP met its legal obligation by informing of the tax charge in the application form, but she considers that there should be a moral obligation and a standard of good service to support claimants who explicitly ask for advice.
- She disagrees that TP caused nominal injustice only. She experienced ongoing concern and emotional strain throughout the claim and complaints process. Unprecedented circumstances were also caused by the Covid – 19 pandemic and she experienced the additional burden of dealing with bereavement while making a death lump-sum benefit application.

29. I have considered Dr L's further comments, but they do not change the outcome, I agree with the Adjudicator's Opinion.

Ombudsman's decision

30. I do not find that TP was responsible for the main delays which resulted in the tax charge being payable for Dr L's death benefit lump sum.

31. TP caused a four-month delay following the receipt of documents that Dr L sent in April 2021. It only reviewed the documents that were provided in August 2021, after it

was contacted by Dr L. This delay was unreasonable, and TP has not provided an explanation for why this delay occurred. This was maladministration.

32. There were additional delays to the processing of Dr L's application for death benefits which I find TP cannot reasonably be held responsible for. TP requested information from Dr L which it required to process her application on 2 June 2020. Dr L did not provide the requested documentation until 16 April 2021.
33. I appreciate that Dr L was finding it difficult to navigate the application process whilst experiencing the additional burden of bereavement. However, TP could not proceed with her application without the information it had requested. I therefore do not find that it can be held responsible for the initial delay to the processing of Dr L's application for death benefits.
34. Dr L has said that TP did not indicate that it would require translated documents at any point in the process until it was formally requested in August 2021. TP has stated that as the Scheme is for teachers employed in either England or Wales, documents in any other language than English would not meet its requirements.
35. It could be said that it would have been better practice by TP to specify that it required documentation in English in its initial information request to Dr L. However, I recognise that as the Scheme is based in the UK, it would not have been part of TP's standard procedure to request translated documents. I therefore do not find that it was unreasonable for TP to only request a translated version of the Decree Absolute after it had reviewed the documents it received on 19 April 2021. I also note that generally documents provided in any other language than English and Welsh in the UK, usually need to be provided with a certified translation.
36. I appreciate that Dr L was experiencing delays with acquiring the Decree Absolute due to the Covid-19 pandemic. However, I agree with the Adjudicator that TP cannot reasonably be held responsible for these delays. It could not proceed without a fully translated version of the document, and Dr L only provided this on 10 October 2022.
37. TP did not inform Dr L that the utility bill that was provided in April 2021 was insufficient until October 2022. I agree that this delay in reviewing the submitted documents was unreasonable. TP has explained that it was not its normal procedure to further review documents until the information requested is received. I find that TP should have recognised that the utility bill was insufficient in the first review it carried out in August 2021.
38. Dr L has also argued that the request for an additional utility bill was unnecessary, as she had also provided a joint bank account statement, and TP had only asked for one piece of evidence in its request of 2 June 2020. Although this is true, TP was within its right to request a further piece of evidence following a review of the submitted documents.
39. TP's errors did cause additional delays to the processing of Dr L's application for death benefits. However, I do not find that TP was responsible for the death benefit

lump sum being paid more than two years after the notification of Dr T's death. The deadline for the tax charge had already passed by several months when it requested a new utility bill, and it was not responsible for the main delays to the process prior to the two-year deadline.

40. Dr L has also claimed that TP delayed acquiring information from Dr T's former employer. It would have been better practice by TP to have contacted Dr T's former employer earlier than 21 January 2021, when it did not receive a response following its first information request. However, it would not have made any material difference to the process, as the information from the employer was acquired on 16 March 2021. At this point, the information requested from Dr L was still outstanding.
41. Dr L has complained about TP's decision to communicate by post. I have not been provided with any evidence which would suggest that Dr L informed TP that she had a preferred method of communication. In the absence of such information, I find it reasonable that TP used its standard method of communication in bereavement cases. TP has also said that it communicated by post as it considered it a more secure method of communication. I do not find this to be maladministration.
42. TP is not required to provide Dr L with evidence of the tax charge being paid to HMRC. It has explained that this payment was made through its normal accounting procedures and that it does not have a reference number to provide in respect of this payment. Dr L can contact HMRC if she requires further clarification regarding the payment.
43. I find that TP fulfilled its positive duty to inform Dr L that her death benefit lump sum payment would be subject to tax if it is paid more than two years after TP became aware of the death of Dr T, by including the information in the application. I appreciate that Dr L did communicate that she did find the application process overwhelming to TP. However, I do not find that TP had additional obligations in this instance.
44. Redress for non-financial injustice is intended as compensation for any distress and inconvenience caused specifically by maladministration. I find that the degree of non-financial injustice which Dr L suffered due to maladministration by TP was nominal, and therefore it does not reach the threshold for the minimum award.
45. I do not uphold Dr L's complaint, and no further action is required by TP.

Camilla Barry

Deputy Pensions Ombudsman
14 May 2025

Appendix

The Finance Act 2004

206 Special lump sum death benefits charge

...

(1B) The special lump sum death benefits charge also arises where—

(a) a lump sum death benefit is paid, to a non-qualifying person, by a registered pension scheme in respect of a member of the scheme who had not reached the age of 75 at the date of the member's death,

(b) the lump sum death benefit is—

(i) a drawdown pension fund lump sum death benefit under paragraph 17 (1) of Schedule 29,

(ii) a flexi-access drawdown fund lump sum death benefit under paragraph 17A (1) of Schedule 29,

(iii) a defined benefits lump sum death benefit, or

(iv) an uncrystallised funds lump sum death benefit, and

(c) the lump sum death benefit is not paid before the end of the period of two years beginning with the earlier of the day on which the scheme administrator of the scheme first knew of the member's death and the day on which the scheme administrator could first reasonably have been expected to have known of it.

...

(4) The rate of the charge is 45% in respect of the lump sum death benefit

...

(9) For the purposes of this section, a person is a “non-qualifying person” in relation to payment of a lump sum if—

(a) the person is not an individual, or

(b) the person is an individual and the payment is made to the person in the person's capacity as—

(i) a trustee or personal representative,

(ii) a director of a company,

(iii) a partner in a firm, or

(iv) a member of a limited liability partnership,

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except that a person is not a “non-qualifying person” in relation to payment of a lump sum if the payment is made to the person in the person's capacity as a bare trustee.