

Ombudsman's Determination

Applicant	Mr Z
Scheme	NHS Pension Scheme (the Scheme)
Respondent	NHS Business Services Authority (NHS BSA)

Outcome

1. Mr Z's complaint against NHS BSA is partly upheld. To put matters right, NHS BSA shall pay £1,000 to Mr Z for the serious distress and inconvenience that he has suffered.

Complaint summary

2. Mr Z has complained about NHS BSA's delay in administering his pension. In particular, he is unhappy with the service he has received from NHS BSA in relation to:
 - processing his claim and paying his pension benefits;
 - providing information about his entitlement; and
 - investigating and responding to his complaint, including the redress offered.

Background information, including submissions from the parties

3. A number of Mr Z's exchanges with NHS BSA were carried out by a member of his family. For ease, the background has been written as though Mr Z actioned these.
4. In April 2018, Mr Z contacted NHS BSA to notify it of the death of his wife (**Mrs Z**).
5. On 18 April 2018, NHS BSA wrote to Mr Z with regard to completing a pension claim form and requested that he provide a copy of Mrs Z's death certificate. Mr Z sent these to NHS BSA via recorded delivery on 29 May 2018. NHS BSA recorded receipt of these on 7 June 2018.
6. On 17 August 2018, Mr Z telephoned NHS BSA to make enquiries as to why he had not received any pension benefits. NHS BSA has provided the call recording for this conversation. The representative (**the first representative**) dealing with the enquiry

confirmed that NHS BSA had received the death certificate and application form but said he was unsure why it had not been processed. He said he would send a request to the bereavement team in order for Mr Z's claim to now be processed. He also confirmed that the team should take 10 working days to process the claim and that, as requested, he would arrange for a complaint form to be sent to Mr Z. Mr Z has provided a different description of this telephone call (see Appendix A).

7. On 28 August 2018, NHS BSA wrote to Mr Z saying it had not yet received his completed pension claim form. In the letter, NHS BSA said he could disregard this if he had recently returned the form.
8. In reply, Mr Z telephoned NHS BSA on 31 August 2018 to understand what was happening with his claim. He again spoke with the first representative in this call. NHS BSA does not have the call recording for this conversation. However, Mr Z has claimed that he was forced to speak to the first representative. He has said the first representative suggested that the "system was down" so he was unable to check the matter but indicated that there was no record of the relevant form having been received. He has also said that the representative did not: apologise, provide any other answer, or offer to take the matter any further forward, and that it seemed he was being purposely unhelpful.
9. Mr Z telephoned NHS BSA again on 4 September 2018 for an update on the progress of his claim. The representative (**the second representative**) confirmed that NHS BSA had received the relevant documentation from Mr Z so she could not say why the letter dated 28 August 2018 had been sent. She said that she would have to refer his case to the bereavement team. Mr Z told her that there was an "unsympathetic culture" in the pension team and asked her to emphasise this to them when passing on his claim.
10. On 16 September 2018, Mr Z formally complained to NHS BSA about how he had tried to get his pension application administered on a number of occasions. He asked for a full investigation into what had happened, taking into consideration the service he had received from NHS BSA's representatives. He highlighted how despite making NHS BSA aware of the circumstances, he had received no interim update or apology from NHS BSA. He asked for his application to be progressed and that his pension be backdated with interest. He also asked for an award to be made for the distress NHS BSA had caused him during a difficult period.
11. On 19 September 2018, NHS BSA wrote to Mr Z to confirm that his pension would be credited to his account and that he would receive an advice note confirming the annual rate of his pension when his first instalment was issued. It explained that a further advice note would only be sent when there was a change in the rate of the pension or tax code. The advice note accompanying the letter listed the gross payment, income tax and net payment Mr Z was due to receive, without a breakdown of the arrears.

12. A day later, NHS BSA acknowledged Mr Z's complaint. In its letter, it had incorrectly spelled Mrs Z's name.
13. On 3 October 2018, NHS BSA wrote to Mr Z saying it was arranging for a payment of £96.60 to be sent to him under separate cover, which included a tax refund of £74.40. The letter contained a table which said that in the tax year 2018/2019, a gross pension of £691.72 had been paid to Mrs Z with no tax deducted. In the tax year 2017/2018, £8,009.38 had been paid, with £910 deducted for tax. In this letter, NHS BSA had again incorrectly spelled Mrs Z's name.
14. On 17 October 2018, Mr Z telephoned NHS BSA for clarification on its letters dated 19 September 2018 and 3 October 2018.
15. Two days later, Mr Z emailed NHS BSA asking it to ensure that it spelled Mrs Z's name correctly on its correspondence. He also raised the following questions:-
 - What did the £96.60 payment relate to and how had it been computed?
 - Why were the gross pension figures in respect of the tax year 2018/2019 so small in comparison to the pension figures for the tax year 2017/2018, and what happened to the "[pound] balance"?
 - When would his first instalment be paid?
 - Would it include arrears?
 - What rate of interest would be applied?
 - Was he entitled to a separate death benefit?
16. NHS BSA issued its response to Mr Z's complaint under stage one of the Scheme's Internal Dispute Resolution Procedure (**IDRP**) on 16 November 2018. It said:-
 - From June 2018, the Scheme's administration was brought "in house". So, it needed to transfer the existing records over to its own system. In doing so, its computer systems were unavailable for a period of time during June 2018.
 - It apologised for the way the first representative dealt with Mr Z's queries and for the fact that he was unable to assist him. From the call recording it was able to listen to, it agreed that the first representative did not deal with the telephone call in a sympathetic manner and said that feedback had been provided to its customer contact centre.
 - It also apologised for the fact that the second representative was unable to resolve Mr Z's queries at that time. It said that the query should have been referred to NHS BSA's Pensioner Administration team. This was the outcome of this call, but it apologised that it had taken up to 4 September 2018 for this to have happened.
 - It noted that the relevant forms were received on 4 June 2018, but the Pensioner Administration team did not action it within the usual timeframe. It was upholding

this part of the complaint and apologised for the incorrect correspondence that Mr Z received on 28 August 2018.

- It acknowledged that Mr Z's pension should have been paid on 4 July 2018 but that he did not receive any payment until 4 October 2018. It said £2.05 in interest was payable to him as a result; he would need to inform HM Revenue & Customs (**HMRC**) that this was a 'Scheme Administration Payment', so tax had not been deducted.
- It offered £500 in recognition of any distress and inconvenience it had caused him.

17. On 26 November 2018, Mr Z asked for clarification on whether his complaint had been upheld in full. He said NHS BSA had failed to address the main aspects of the complaint and that the offer of £500 was "deeply insulting". He said that he had been distressed and exhausted at an immensely difficult time. As a result of the delays, further matters had arisen. He asked NHS BSA to respond to the following:-

- It had failed to properly consider the first representative's acts and/or omissions, and his failure to offer any advice.
- It had failed to address the telephone call with the second representative: she should not have suggested that he talk to the bereavement team.
- The correspondence that had been sent to him dated 19 September 2018 and 3 October 2018 were ambiguous.
- There was no acknowledgement or answer from either the bereavement team or the Pensioner Administration Team to his email dated 19 October 2018.
- He had received no calculation breakdown so he had been unable to determine whether the payment he had received was correct, or contact HMRC.
- NHS BSA did not confirm the rate of statutory interest on the arrears or the regulations used to determine this. So, he was unable to check this.
- Mrs Z's name was incorrectly spelt in NHS BSA's correspondence dated 19 September, 20 September and 3 October 2018.

18. NHS BSA issued its stage two IDRP response on 30 January 2019. It apologised that the stage one response was not clear and clarified that Mr Z's complaint was upheld in full. Its response was, in summary:-

- The Pensioner Administration Team received details of the call on 17 August 2018. It said when Mr Z's claim was reviewed on 28 August 2018, it incorrectly sent a letter asking for further information. It apologised and said that the delays Mr Z had experienced were unnecessary and unacceptable. It agreed that it should not have taken almost four months to process Mr Z's claim, as per the NHS Pension Scheme Regulations 1995 (**the Regulations**).

- It acknowledged that it should have written to Mr Z with details of his first instalment when this was paid on 4 October 2018. It also acknowledged that the level of service Mr Z had received fell short of the standard it normally provided.
- It advised that there was no record of the telephone call on 31 August 2018. It said that there may have been a connectivity issue but could not verify this. In relation to the telephone call on 4 September 2018, it said there was no evidence that the query was forwarded to the Pensioner Administration Team and apologised for this.
- It confirmed that Mr Z was entitled to receive a short term pension for the first three months, based on the rate of pension Mrs Z was receiving when she died. After this, Mr Z would receive a long term 'adult dependant' pension, which was approximately half the rate of the short term pension. It enclosed a full breakdown of how the gross and net pension amounts, detailed in the 19 September 2018 and 3 October 2018 letters, were calculated (see Appendix B).
- It apologised for not responding to Mr Z's email dated 19 October 2018 and confirmed that late payment interest was calculated using the base rate, on a day to day basis, from the due date of payment compounded with "three-monthly rests". This was in accordance with regulation T8 of the Regulations (see Appendix C).
- It offered a further apology on behalf of NHS BSA, "for the lack of compassion which was shown when dealing with [Mr Z's] pension application, acknowledging that this process commenced in June 2018 when [NHS BSA] received his completed form." It also apologised for the misspelling of Mrs Z's name, but had misspelt it again in its response.
- It considered that the £500 it had offered for non-financial injustice was in accordance with the guidance issued by The Pensions Ombudsman's Office (TPO's Office).

Mr Z's position

19. NHS BSA delayed administering and paying his pension benefits which meant he and his family had to chase NHS BSA for progress to be made and for adequate responses to their enquiries.
20. The assistance received from NHS BSA's representatives was inadequate.
21. NHS BSA's general handling of a bereaved beneficiary was inappropriate.
22. NHS BSA had delayed supplying adequate computation of the pension benefits, which was still outstanding.
23. NHS BSA did not retain records of all the telephone calls he had made to NHS BSA.

24. NHS BSA failed to conduct a full investigation into all the points he raised in his complaint.
25. NHS BSA's apology for the errors recognised was not "readily forthcoming" and it had failed to take appropriate action in respect to these, for instance its inadequate award for non-financial injustice offered. It had also failed to apologise for all the mistakes made in his case.
26. As a result of the above, he suffered additional distress and inconvenience alongside his bereavement and health problems, to the point that he has been left exhausted and unable to continue to chase for updates. He would like his complaint to be properly addressed, a formal letter providing a full breakdown of his pension benefits and an award to reflect the non-financial injustice caused.
27. With regard to NHS BSA's responses, he made the following comments:-
 - The specific feedback NHS BSA provided to its representatives is unknown and was provided by "a demonstrably failing body, through a department which cannot attend to detail".
 - NHS BSA should have strived to make every additional effort to ensure that the calculation of his pension was adequately explained to him. It was unclear why NHS BSA left it until after he had received his pension payments to explain the amount being paid. Further, it did not provide him with a survivor guide, nor was there any reference or signposting to any online guidance.
 - The fact that new guidance has been issued for beneficiaries demonstrated that there was a need for adequate explanations. This need was explicit in April 2018, as he had been in distress. His payment was then further complicated by the fact that he had arrears.
 - NHS BSA had provided irrelevant information in respect of Mrs Z's pension (see paragraph 34 below). This demonstrated that his pension needed to be explained. In addition, the fact that he had complained about the computation of his pension benefits suggested that others in receipt of the same information, would also benefit from further computation details. NHS BSA did not want to undertake the work of having to revise its processes.
 - The continuous incorrect spelling of Mrs Z's name was "disrespectful" and showed contempt towards him. NHS BSA was aware that in addition to bereavement, he was experiencing serious health problems; his frailty would have been obvious to anyone. The aggravating factors justified a higher award for non-financial injustice.
 - Furthermore, he and his family had spent time and effort to explore and consider NHS BSA's responses. His son used his "professional time" assisting him with his enquiries.

- He had to use his savings because payment of his pension was delayed. Had he received his pension on time, he would have used this for other “purposes other than to fund basic needs” and not incurred telephone costs and minor stationary costs.

NHS BSA’s position

28. It has acknowledged and accepted that the level of service experienced by Mr Z was below the standard that should have been provided. Furthermore, the delay in processing and paying the pension was unacceptable. It has also offered its sincere apologies for this.
29. Mr Z’s pension should have been paid by 4 July 2018. It failed to meet this timescale. Consequently, he was notified of the amount of his pension in the letter dated 3 October 2018. It paid Mr Z the arrears of his pension on 4 October 2018.
30. Call handlers are not administrators on the case so, in some instances, they are unable to resolve queries. They can refer the case to the relevant team to action accordingly. Complaints about a member of staff are referred to the appropriate team manager to take forward with the individual concerned.
31. After listening to the telephone call recordings available, these being for 17 August and 4 September 2018, it agreed that there was a lack of sympathy on the part of NHS BSA. It did not accept Mr Z’s recollection of the telephone call that took place on 17 August 2018.
32. Other than the telephone calls in August and September 2018, and the call notifying NHS BSA of Mrs Z’s death, there were no records of any other telephone calls from Mr Z.
33. A full breakdown of Mr Z’s pension benefits was provided with its response under stage two of the IDRP. It did not agree that the breakdown was “unfathomable and amateurishly formulated”, as Mr Z has alleged.
34. It provided two guides and factsheets that would have been available on NHS Pensions’ website in April 2018. These provided general information as otherwise, it believed the literature would become unreadable for Scheme members. When Mrs Z retired from the Scheme in August 2004, she had been provided with a retirement letter that explained how her benefits and the adult dependant pension were calculated.
35. It received a joiner form from Mrs Z’s employer which had a different spelling of her surname. It subsequently received letters and documents with the correct spelling. It accepts that it should have amended its record to reflect this.
36. It would not increase the award it had offered for non-financial injustice. This offer was in accordance with TPO’s Office’s guidance for non-financial injustice.

Adjudicator's Opinion

37. Mr Z's complaint was considered by one of our Adjudicators who concluded that there was maladministration. The Adjudicator's findings are summarised below:-

- It was accepted that maladministration had occurred and that this had impacted Mr Z. Having reviewed Mrs Z's retirement letter, the breakdown provided in NHS BSA's response under stage two of the IDRP and the Regulations, the Adjudicator was satisfied that Mr Z had not experienced any financial loss as a result of the delay in paying his pension. Although the interest applied to his pension appeared small, the highest official Bank Rate quoted at that time was 0.75%.
- The associated costs in dealing with the maladministration formed part of the inconvenience element of the non-financial injustice caused to him, rather than a direct financial loss. While Mr Z sought help from his son, and this took up his son's professional time, the Adjudicator did not consider that professional help would have been required to complain to TPO's Office. So, NHS BSA was not required to cover the costs incurred for Mr Z's son's time.
- The Adjudicator said that she could not take into consideration Mr Z's claim that he would have used his pension for purposes other than basic living costs unless he was able to substantiate this. While she accepted that Mr Z could have invested his pension, the Adjudicator said that she could not recommend that NHS BSA cover hypothetical returns on his pension. Further, Mr Z had not raised this point until he had contacted TPO's Office.
- Mr Z had raised a number of complaints that he considered had contributed towards his distress and inconvenience. The Adjudicator said that, for these to be taken into account, those alleged acts and/or omissions on the part of NHS BSA would need to amount to maladministration. In the Adjudicator's view, the following complaints had been accepted as maladministration:
 - the delay in administering and paying Mr Z's pension, which included the letter dated 28 August 2018 being sent in error, and that there was no evidence that Mr Z's requests had been passed to the Pensioner Administration Team after the telephone call on 4 September 2018;
 - the fact that Mr Z had to chase for responses and payment of his pension;
 - the delay in providing details of Mr Z's pension benefits; and
 - as part of the service provided as a whole, the lack of compassion when dealing with Mr Z's application, the misspelling of Mrs Z's full name on a number of occasions, the failure to respond to Mr Z's email dated 19 October 2018, as well as omitting certain points when responding to Mr Z's complaint.
- The Adjudicator did not agree with all the issues Mr Z had raised concerning: the acts and/or omissions on the part of the representatives; the provision of adequate computation; the lack of information and direction given; how the continuous

misspelling of Mrs Z's name showed NHS BSA's contempt for Mr Z; NHS BSA failing to ascertain and investigate his complaints and apologise for the errors; and the failure to offer an appropriate award in recognition of the distress and inconvenience caused.

- The first representative could have been considerably more sympathetic given the nature of the call and the surrounding circumstances. However, they confirmed that all the correspondence had been received and said that they were unsure why it had not been processed. They also said they would contact the bereavement team to chase this for Mr Z, so they did all that they could. As a result of this, it appeared as if the bereavement team started processing Mr Z's application from 28 August 2018. This is why the letter was issued to him, albeit incorrectly. There was no mention of the system being down.
- The second representative could also have been more sympathetic, especially when Mr Z's circumstances had been explained. It also did not appear that Mr Z's queries were forwarded to the Pensioner Administration Team. With regard to the referral to the bereavement team, by offering direct contact with them, the second representative did not do anything wrong. Although the customer contact team may have been Mr Z's point of contact, it was the bereavement team that would have been better placed to answer Mr Z's questions.
- The information in NHS BSA's IDRP stage two response outlined Mr Z's pension benefits and the breakdown of his arrears. While the table provided may have caused some confusion, combined with the accompanying breakdown, it was clear that the figures corresponded to one another. They demonstrated how Mr Z's initial three-month pension was split across April to July 2018, followed by his adult dependant pension. NHS BSA was not required to provide anything further, so the Adjudicator could not see that the information provided amounted to an administrative error.
- Although Mr Z claimed that the provision of the retirement letter issued to Mrs Z demonstrated that further explanation was needed, in the Adjudicator's view, NHS BSA provided this to demonstrate that information had previously been provided that could have managed Mr Z's expectations. However, as this was not addressed to Mr Z, it was possible that he may not have known.
- Irrespective of the above, information was available online which outlined his entitlement, that Mr Z could have accessed. Had he done so, he would have realised that he would not have been entitled to a death benefit lump sum. NHS BSA did not direct Mr Z towards this information, but there was no requirement for it to do so. Mr Z did not ask for this type of information until his email dated 19 October 2018, so it could be argued that this was not an urgent question for him.
- NHS BSA recognised that Mrs Z's details should have been updated after receiving correspondence with the correct spelling, which demonstrated that this

was more likely to have been an administrative problem rather than a deliberate error.

- With regard to NHS BSA's responses, it had accepted that the service from its representatives was below the standard it aimed for. So, in the Adjudicator's view, NHS BSA had demonstrated that it had looked into the complaint and it provided a summarised response, which was satisfactory. It was not unusual for respondents to adopt proportionate investigations where a complaint was being upheld, and it was less necessary to provide a detailed response. In addition, Mr Z did not specify what he wanted as an outcome from the investigation into the service provided by NHS BSA's representatives.
- NHS BSA had a number of months where it could have processed the application independently, but it was as a result of Mr Z's telephone call that the error was identified. NHS BSA then incorrectly issued the letter dated 28 August 2018, which would have caused confusion, and it did not respond to all of Mr Z's correspondence. Despite Mr Z explaining his circumstances and how this was a difficult time for him, NHS BSA did not apologise until its stage one IDRP response. Taking this into account, in light of the circumstances and the errors, the Adjudicator thought serious distress and inconvenience had been caused and that NHS BSA's offer should be increased to £1,000.
- The Adjudicator acknowledged that Mr Z was hoping for more than this, but the main error, which was the delay in processing and paying Mr Z's pension, was rectified in a relatively short period of time. The Adjudicator could not see that this had a significant financial impact on Mr Z. The only complaint that received a delayed response was the misspelling of Mrs Z's name, as the other complaints appeared to have been responded to albeit, not as Mr Z would have liked. Although Mr Z disagreed with NHS BSA's award, this did not mean it amounted to maladministration. The Adjudicator sympathised with Mr Z and acknowledged that this was a very distressing experience for him but did not conclude that a higher award than £1,000 was applicable.

38. NHS BSA accepted the Adjudicator's Opinion, but Mr Z did not. So, the complaint was passed to me to consider. Mr Z provided further comments which are summarised below:-

- There had been no consideration of the fact that NHS BSA had 'lost' the telephone call that took place on 31 August 2018.
- NHS BSA never mentioned or referenced the information available online or the letter issued to Mrs Z, which contained information in relation to his entitlement. It was "absurd" to suggest that he, in the state that he was in, could be reasonably expected to go online to find this information for himself. Further, he had confirmed that he did not receive the information that had been sent to Mrs Z, so this was not in question.

- NHS BSA was duty bound to send out the relevant information or reference the online tools available but it had not done so.
- The Adjudicator had not considered the significance of NHS BSA's reference to the information sent to Mrs Z. This demonstrated that the information he received from NHS BSA was "wholly ineffectual and inadequate."
- There had been no apology from NHS BSA for continually misspelling Mrs Z's name. Even if it was not done on purpose, he had made it clear that he believed this was incompetent and aggravating. Further, the Opinion did not reflect the fact that NHS BSA had continued to misspell Mrs Z's name into the summer of 2020, when corresponding with TPO's Office. So, it followed that NHS BSA had never apologised in full.
- The evidence provided showed the magnitude of his distress and this was not in dispute; it was clear that severe distress and inconvenience had been caused to him.

39. The Adjudicator acknowledged Mr Z's comments and that she had omitted to comment on the complaint point relating to NHS BSA's non-retention of the 31 August 2018 telephone call. The Adjudicator's response to Mr Z was, in summary:-

- NHS BSA could not confirm why this was the case, so there was no way of confirming that one possibility was more likely than the other. However, all telephone call recordings should have been retained for the relevant time period. As there was no recording of the telephone call, she had attempted to reflect the description provided by Mr Z in the Opinion.
- Without listening to the telephone conversation, it could be assumed that the interaction was similar to the telephone call that took place on 17 August 2018. So, it was likely that the representative could have been more sympathetic, and, as there were no records of the comments being passed to the bereavement team. Overall, this would have contributed towards Mr Z's distress and inconvenience, but she would have nonetheless still recommended the £1,000 award.

40. In response, Mr Z submitted further comments. Some of these do not relate to the complaint being considered here, so these will not be included below. The additional comments of relevance have been summarised below:-

- He could not accept the Adjudicator's comments on the telephone call from 31 August 2018, as these were made after the Opinion, when the Adjudicator did not have the jurisdiction to produce post-Opinion comments, and they were impermissible on public law grounds.
- The loss of the telephone call recording was an aggravating factor and the distress that would have been "vividly conveyed by the recording" had been overlooked.

- He wished to know on what basis the pension entitlement explanation provided by NHS BSA was adequate.
- The Adjudicator's comments about him and Mrs Z potentially discussing pension entitlements were hypothetical and irrational. He had not received or seen any guidance from 2004, nor had he heard about this.
- The guidance that was online at the time was irrelevant. There was no significance in this guidance which undermined his complaint about the inadequacy of the pension entitlement explanation. The information only provided general information, with no specific detail on his computation.
- The ongoing misspelling of Mrs Z's name had caused cumulative distress. NHS BSA's explanation did not account for the further misspellings, meaning it was not the correct explanation for the errors.
- He had been "fantastically distressed" by these events. Having to review and reply to NHS BSA's responses to his complaint, both prior to and during TPO's Office's involvement, had a strong adverse effect on him.

41. As Mr Z's position remained the same, the complaint was passed to me to consider. I note the additional points raised by Mr Z, but I agree with the Adjudicator's Opinion. As a result, I have not commented on all of his complaints, but I have addressed a number of Mr Z's comments.

Ombudsman's decision

42. The payment of Mr Z's pension benefits was delayed, which amounts to maladministration. NHS BSA has backdated Mr Z's pension and applied financial interest in accordance with the Regulations. As Mr Z has not substantiated any other claims of financial loss, I am satisfied that the financial impact that this had on Mr Z has been addressed. However, Mr Z believes that a higher award for the non-financial impact of NHS BSA's act and/or omissions is warranted.
43. When assessing whether an award is appropriate and what level this should be, only the distress and inconvenience stemming from maladministration can be considered. I also have to take into account whether an applicant could have mitigated their circumstances. In this instance, Mr Z does not believe that there has been adequate consideration of the distress caused by the following:
- the telephone call that took place on 31 August 2017;
 - the explanation and presentation of his pension entitlement;
 - the misspelling of Mrs Z's name on a number of occasions; and
 - the impact of dealing with NHS BSA from August 2018, both directly and then indirectly, after referring the complaint to my Office.

31 August 2018 Telephone Call

44. It is disappointing that NHS BSA has not retained the telephone call recording of the conversation that took place on 31 August 2018. However, Mr Z has provided a description of the conversation, which I have been able to review. It is clear that the letter dated 28 August 2018 would have caused Mr Z distress and confusion. He should not have been put in a position where he was required to contact NHS BSA for clarification.
45. I am unable to confirm the accuracy of Mr Z's description of the call, but I am not persuaded that the first representative would have said that relevant forms had not been received when he had already confirmed that they had been during the telephone call on 17 August 2018.
46. Nevertheless, there is no evidence of a further referral to the bereavement team, which may have been beneficial in this instance. In addition, from the available telephone call recordings, I find it likely that the first representative would have demonstrated a similar lack of sympathy, which would have added to Mr Z's distress.

Explanation and presentation of Mr Z's pension entitlement

47. With regard to the administration and explanation of Mr Z's pension benefits, there were a number of acts and/or omissions which contributed towards Mr Z's distress and inconvenience at an already sensitive time. Namely: the initial processing of the application was delayed by approximately four months; it issued a letter dated 28 August 2018 that incorrectly said relevant forms had not been received; there was no confirmation that the application was being processed; nor was there confirmation of when his benefits would likely be paid.
48. I must also consider that, despite this being a difficult time for Mr Z, he did not contact NHS BSA to enquire about his application until approximately two and a half months after submitting it. Nor did he ask about the figures involved until his telephone call on 17 October 2018. This suggests that he was not financially reliant on the payment of these benefits or concerned about the figures. Rather, he wanted to confirm why he had received the amounts that he had. As a result, I cannot see how NHS BSA's having not confirmed the figures involved could have caused Mr Z distress, until 17 October 2018 at the earliest.
49. I understand Mr Z did not discuss any potential benefits with Mrs Z and that he did not see the retirement letter issued to her in 2004. I also appreciate Mr Z has said that he did not know about the online guidance as NHS BSA had never mentioned or referred to this. So, he would not have known what benefits to expect. However, NHS BSA was not required to inform Mr Z about the information available online, and, as Mr Z has noted, the guidance would have only provided general information rather than the precise figures involved.
50. Nevertheless, had Mr Z had concerns in relation to what his entitlement was, I would have expected him to have made such enquiries at the earliest opportunity. As Mr Z

was able to submit his application, I do not consider it unreasonable to expect him to have asked about his benefits at this point, or where he could find further information. Consequently, he would have known that he was entitled to an initial, short term pension followed by his adult dependant pension before 17 October 2018, which is the point at which he did make these enquiries.

51. The payments Mr Z received might have raised some questions, as there was a delay in providing details of his pension. However, NHS BSA provided a detailed breakdown of his pension benefits alongside its IDRP stage two response. This detailed:
- the terms of the initial pension and the adult dependant pension, alongside the applicable rates;
 - the amounts Mr Z was entitled to for each type of pension, for each applicable calendar month;
 - confirmation of the total arrears paid on 4 October 2018, outlining the gross and net figures along with the applicable tax; and
 - the outstanding amount (residue) that was owed to Mrs Z.
52. I agree that it would have been beneficial for Mr Z to have received this alongside his payments. However, I do not agree that a further breakdown is warranted. NHS BSA has demonstrated where the amounts have stemmed from and why, and I cannot see that there is any relevant data that has been omitted. So, there was no requirement for NHS BSA to issue anything further.
53. I appreciate that it may have taken approximately three months for NHS BSA to provide this information, and that Mr Z may have wanted to ensure he was in receipt of the correct benefits. But, considering that he was not reliant on these benefits, this would not have been an urgent task. Alternatively, if it had been, Mr Z could have engaged in an open conversation with NHS BSA about his benefits, as opposed to waiting for it to be addressed as a complaint.

Misspelling of Mrs Z's name

54. NHS BSA misspelled Mrs Z's name on a number of occasions, even after the complaint was referred to my Office. I do not doubt that this caused Mr Z distress, which, taken in conjunction with the other errors, would have had a compounded effect. I note Mr Z does not believe that NHS BSA has apologised for this error and that its explanation did not account for further misspellings. I disagree.
55. It is clear that NHS BSA apologised for misspelling Mrs Z's name in its stage two IDRP response. However, I note that it could have addressed this complaint in its stage one IDRP response. Following this, it could have also made a conscious effort to check the spelling of Mrs Z's name on its correspondence.

56. NHS BSA explained the reason for these errors to my Office in August 2020. It was only at that point that NHS BSA amended its records to the correct spelling. I have not seen any further errors in NHS BSA's correspondence after this point, so I have no reason to question the explanation it has provided. Nevertheless, irrespective of the explanation, NHS BSA should have identified this earlier, which evidently would have caused less distress.

NHS BSA's handling of the complaint

57. I understand Mr Z has been distressed by the ongoing complaints process. However, I cannot see that NHS BSA has done anything wrong in this respect. While I can see that certain elements of the complaint could have been addressed earlier than they were, the main cause for complaint was resolved in a relatively short period of time, whereby Mr Z was put back in the position that he ought to have been in.
58. I appreciate Mr Z would like his complaint resolved as soon as possible, but a resolution is not always achievable. This does not mean that NHS BSA has necessarily done anything wrong. Rather, an agreement simply has not been reached as the parties to the complaint have different viewpoints.
59. Mr Z has specifically mentioned having to review information at different stages of this matter, which he believes has caused further distress. While this may have been aggravating for him, this is not unusual when making a complaint and I do not consider this to be as maladministration.
60. Although, I have noted that NHS BSA could have acted more quickly in respect of certain matters, such as addressing the complaint about misspelling Mrs Z's name, I do not conclude that this prevented an earlier resolution of the matter overall. It is clear that NHS BSA and Mr Z do not agree on how to redress the matter, which is why the complaint was passed to me for consideration.
61. After reviewing the number of errors and the impact these have had on Mr Z, I find that a higher award than £500 is warranted. That being said, I do not agree that the distress and inconvenience which was caused to Mr Z was severe.
62. In conclusion, Mr Z carried out additional administrative work, that should not have been required, during a difficult time. His telephone experiences with NHS BSA could have been more sympathetic, and NHS BSA should have done more to keep Mr Z updated with the progress of his application, particularly after the delay had been highlighted. Further, NHS BSA failed to respond to its errors regarding Mrs Z's name in the first instance and continued to make the same error on a number of subsequent occasions. Consequently, I find that Mr Z has been caused a serious level of distress.
63. I uphold Mr Z's complaint in part.

Directions

64. Within 28 days of the date of this Determination, NHS BSA shall pay £1,000 to Mr Z in recognition of the serious distress and inconvenience caused.

Anthony Arter

Pensions Ombudsman
16 February 2021

Appendix A

Mr Z's description of the telephone call that took place on 17 August 2018, provided in his complaint letter dated 16 September 2018

"17 August 2018 (pm): [Mr Z's son] telephones 0345 121 2522. He speaks with "Peter" (who declines, when asked, to provide a surname). The circumstances of [Mr Z's son's] family's bereavement, of the application having been made months before, and of [Mr Z's] and [Mr Z's son's] family's upset at the application not having been administered after so long, is clearly relayed to Pete, with no ambiguity. It is made perfectly clear to Peter that [Mr Z] feels so very let down that a formal complaint is likely, if the matter is not now administered urgently. Peter was put on full notice of all issues. Peter suggests that "*the system is down*" and that he cannot further check anything. Despite this, he however confidently suggests that there is no record of the relevant form (G60?) and Death Certificate having been received, to enable the application to be processed. This is dubious and has since been shown to be false. Peter offers no apology or any other answer. He does not offer any further advice, nor does he offer to take the matter meaningfully forward in any way or to return to [Mr Z] with any information, so that he may be least troubled. Peter could not possibly have been any *less* helpful. The strong appearance is that he was deliberately unhelpful, and obstructive by omission. Either this, or he is fundamentally incompetent and requires basic re-training. His manner was also rude, blatantly uncaring and lethargic. Note, Peter also fails to simply explain that a call reference could be provided in respect of the telephone conversation. Nor does he provide one (most probably in the hope that either a direct complaint will not be made, or any direct complaint made is that much more arduous to follow up). The inference is irresistible."

Appendix B

Extracts of the breakdown provided to Mr Z with NHS BSA's stage two IDRP response

Adult Dependant Pension Arrears

Initial Pension (Short term) from 12/04/2018 to 11/07/2018 at the rate of £8,255.94 gross per year

Adult Dependant Pension (continuing) from 12/07/2018 at the rate of £4,139.43 gross per year

Initial Adult Dependant Pension

12/04/2018 to 19/04/2018 (8 days)
 $8,255.94/12 = 688.00/31 = 22.19 \times 8 = £177.55$

20/04/2018 to 19/05/2018 (1 whole month)
 $8,255.94/12 = £688.00$

20/05/2018 to 19/06/2018 (1 whole month)
 $8,255.94/12 = £688.00$

20/06/2018 to 11/07/2018 (22 days)
 $8,255.94/12 = 688.00/30 = 22.19 \times 22 = £504.53$

Total

$177.55 + 688.00 + 688.00 + 504.53 = £2,058.08$ gross

Continuing Adult Dependant Pension

12/07/2018 to 19/07/2018 (8 days)
 $4,139.43/12 = 344.95/33 = 11.50 \times 8 = £91.99$

20/07/2018 to 19/08/2018 (1 whole month)
 $4,139.43/12 = £344.95$

20/08/2018 to 19/09/2018 (1 whole month)
 $4,139.34/12 = £344.95$

Total

$91.99 + 344.95 + 344.95 = £781.89$ gross

Total Arrears Paid on the 04/10/2018

$2,058.08 + 781.89 =$	£2,839.97 Gross
	- <u>£567.80</u> Tax
	£2,272.16 Net

Residue, Arears and Overpayment Calculator

Code	Start Date	End Date	Days	Annual Pension	Arrears/Residue
1302	12/04/2018	19/04/2018	8	£152.30	£3.28
1302	20/04/2018	19/05/2018	30	£152.30	£12.69
1302	20/05/2018	19/06/2018	31	£152.30	£12.69
1302	20/06/2018	11/07/2018	22	£152.30	£9.31
1202	12/04/2018	19/04/2018	8	£2,316.67	£49.82
1202	20/04/2018	19/05/2018	30	£2,316.67	£193.06
1202	20/05/2018	19/06/2018	31	£2,316.67	£193.06
1202	20/06/2018	11/07/2018	22	£2,316.67	£141.57
1102	12/04/2018	19/04/2018	8	£5,786.97	£124.45
1102	20/04/2018	19/05/2018	30	£5,786.97	£482.25
1102	20/05/2018	19/06/2018	31	£5,786.97	£482.25
1102	20/06/2018	11/07/2018	22	£5,786.97	£353.65
Spouse					
1101	12/07/2018	19/07/2018	8	£4,139.43	£91.99
1101	20/07/2018	19/08/2018	31	£4,139.43	£344.95
1101	20/08/2018	19/09/2018	31	£4,139.43	£344.95
				Total:	£2,839.96

Residue Payment Breakdown

Members Date of Death: 11/04/2018

Last Pay Date: 10/04/2018

Members Annual Pension at date of death: £8,255.94

Residue

11/04/2018 to 11/04/2018 (1 day)

 $8255.94/12 = 688.00/31 = £22.20$ **Total Residue Paid on 05/10/2018** $£22.20$ (1 day residue) + $£74.40$ (Tax Rebate) = $£96.60$ net

Appendix C

The National Health Service Pension Scheme Regulations 1995 [SI 1995/300]

T8 Interest on late payment of benefits

- (1) Subject to paragraph (2) below, where the whole or any part of a qualifying payment under these Regulations is not paid by the end of the period of one month beginning with the due date, the Secretary of State shall pay interest, calculated in accordance with paragraph (2) below, on the unpaid amount to the person to whom the qualifying payment should have been made.
- (2) Interest under paragraph (1) above shall not be payable where the Secretary of State is satisfied that the qualifying payment was not made on the due date by reason of some act or omission on the part of the member or other recipient of the qualifying payment.
- (3) The interest referred to in paragraph (1) above shall be calculated at the base rate on a day to day basis from the due date to the date of payment, and shall be compounded with three-monthly rests.
- (4) In this regulation -

“base rate” means the Official Bank Rate for the time being quoted by the Bank of England [...]