

Ombudsman's Determination

Applicants	Mr M N and Mr T N
Scheme	Teachers' Pension Scheme (TPS)
Respondent	Teachers' Pensions (TP)

Outcome

1. The complaint made by Mr M N and Mr T N against Teachers' Pensions is partly upheld. To put matters right, TP shall award Mr M N and Mr T N £500 each in recognition of the serious distress and inconvenience which they have experienced dealing with this matter.

Complaint summary

2. Mr M N and Mr T N (**the Applicants**) have complained that TP failed to provide them with adequate information about the death benefits available to them in a timely fashion. This failure led to a delay in the Applicants being able to apply for the supplementary death grant (**the Death Grant**) of £46,794.22 within two years of notifying TP of their mother's death in May 2012.
3. Mr M N has said that TP did not inform him, during a telephone call on 17 May 2012, about the availability of the Death Grant or the two-year deadline to apply for it in order to avoid a 45% "unauthorised payments charge" by HMRC.
4. The Applicants have said that it was only in early 2019 that they first became aware of the existence of the Death Grant and that they should have applied for it by the two-year deadline in order for any Death Grant payment to be classified as an "authorised payment" by HMRC.

Background information, including submissions from the parties

5. Mrs N, a TPS pensioner, died on 13 May 2012. Mr M N telephoned TP on 17 May 2012 to notify TP of his mother's death.
6. TP recorded this telephone conversation. According to the recording:-
 - Mr M N did not introduce himself to TP at the beginning of the call.

- He notified TP that: (a) his mother had died on 13 May 2012; (b) she did not leave a surviving spouse; and (c) he and his brother were the joint executors and beneficiaries of their late mother's estate.
 - He asked TP whether there were any outstanding benefits payable from the TPS following his mother's death.
 - TP informed him that a small payment representing Mrs N's unpaid pension from 4 May to 13 May 2012, was payable and provided him with details on how to claim it.
 - TP informed Mr M N three times that it would be sending him an application form (**the Form**) for completion and return before any payment could be made.
 - TP also mentioned that it required sight of a copy of Mrs N's death certificate.
 - Mr M N asked TP to send the Form to him at Mrs N's home address and understood that he had to complete and return the Form to TP.
 - TP advised him to call again if he had any further queries.
7. On 17 May 2012, TP sent a bereavement pack (**the Pack**) by post to Mrs N's home address, as requested by Mr M N. The Pack also included the Form which was titled "Application for Death Benefits". The explanatory notes which were also included with the Pack provided details about the Death Grant and the two-year deadline to apply so that any such payment would not be subject to a tax charge.
8. The covering letter sent with the Form said that:
- "I am sorry to learn of your recent loss. Please accept my condolences.
- ...we require confirmation of certain details to allow us to pay any benefits that may be due...
- The Form should be completed and returned to TP as soon as possible. You should also complete the Certificates Enclosure Form indicating the documents you have sent to us. Please do not delay returning the application form if you are not in possession of all certificates."
9. Mr M N has said that he did not receive the Pack despite both he and his brother having left forwarding addresses for post with the landlord of Mrs N's home. They subsequently arranged with the Post Office for mail sent to Mrs N's home to be redirected to Mr M N's home address from 5 July 2012, for six months.
10. There was no further correspondence between TP and the Applicants until 21 February 2019 when Mr T N telephoned TP to find out if the Death Grant was payable. In response, TP reissued the Pack to Mr T N. He subsequently sent TP the

completed Form, and a letter dated 25 February 2019, explaining the mitigating circumstances behind the late application for the Death Grant.

11. In his letter, Mr T N said that:

“Since my mother passed away...it has only come to my attention that both my brother...and I, as executors and beneficiaries of her estate, are entitled to the Death Grant payable on our mother’s Teachers Pension.

Having spoken with [...] TP...she has advised me that, given the time since you were initially informed of my mother’s passing... a cover letter...would be necessary in order to claim the amount in full.

Given that my mother died within five years of her pension in payment, I understand the figure to be equivalent to five times the annual pension less any annual pension received prior to my mother’s death...

[...] TP also suggested...that she believed it may be the case that a claim would need to have been made within two years of a member’s death...to receive a full payment....

This is of great concern to us given that my brother and I have not received any notification of our entitlement to this Death Grant, let alone any stipulation regarding timeframe. From the research we have done since being made aware of our entitlement to the Death Grant, there appears to be no mention on your website of any such requirement.

To support our application for the full tax-exempt amount due, I also wanted to provide some context as to why we are only now applying for the grant.

At the time of my mother’s death, she was living in a rented property in Cheshire...the landlord required the property to be emptied and returned to the rental market quickly following her death. We did this, taking my mother’s belongings to my home in Warwickshire and to my brother’s home in Edinburgh.

This was an incredibly stressful period for my brother and I, and despite leaving forwarding addresses we did not receive any post that was sent to her property after her death, including we assume the Teachers’ Pensions Bereavement pack...

Had we received the pack we would certainly have acted upon it at the time rather than now.

To compound the pressure of watching our mother deteriorate and die from a horrific disease...my brother was taken to hospital not long after my mother’s funeral with an unexplained broken femur.

Clearly this did not help our endeavours to manage the closure of her estate. His resulting time in hospital saw him being tested for potential bone cancer

which given the reasons for my mother's death caused a phenomenal amount of additional stress on all of us and in hindsight, is the likely reason for our oversight in pursuing the claim.

Regrettably, with everything else that was happening in a concentrated and complicated period we've clearly overlooked items which should have been dealt with as a formality.

We now deeply regret not having professional support at the time...

We therefore respectfully request that you consider the extenuating circumstances outlined above and advise on the process for us to obtain the full tax-exempt amount due from our late mother's Teachers' Pension Death Grant."

12. TP replied on 4 March 2019 as follows:-

- The Death Grant of £46,794.22 was payable in addition to the residual pension arrears of £462.68.
- As payment of the Death Grant was being made more than two years after TP was first notified of Mrs N's death, HMRC would treat it as "unauthorised" and taxable at 45%.
- TP would arrange for the tax to be paid directly to HMRC.
- The net Death Grant after deduction of tax was £25,736.83.
- It required a letter supplying relevant details of the recipient(s) of the Death Grant signed by the parties named on the grant of probate before it could arrange payment.

13. The Applicants disagreed that a 45% tax charge should be applied to the Death Grant.

14. On 25 March 2019, TP replied to Mr T N as follows:

"Under HMRC rules, registered pension schemes qualify for tax relief and exemptions...the tax rules for registered pension schemes put conditions on the types of payments that can be made to or in respect of the members of such schemes...Payments that do not fall within these conditions are called unauthorised member payments...

Under paragraph 13 of Schedule 29 of the Finance Act 2004 13(1) a lump sum death benefit is a defined benefits lump sum death benefit if...:

But in a case where the member had not reached the age of 75 at the date of the member's death, a lump sum death benefit is a defined benefits lump sum death benefit only if it is paid before the end of the relevant two-year period.

“The relevant two-year period” means the period of two years beginning with the earlier of the day on which the scheme administrator first knew of the member’s death and the day on which the scheme administrator could first reasonably be expected to have known of it.

If the lump sum death benefit is paid later than two years after the earlier of the two days, it will not be a defined benefits lump sum death benefit and (unless it falls within the definition of one of the other authorised lump sum death benefits) will be an unauthorised member payment. Unauthorised payments are subject to a tax charge...

The notes included with the Form, which beneficiaries are requested to read, state that “the payment of the death lump sum must be paid within two years of the date of death. It is therefore important that TP are provided with all the information required as soon as possible.”

I note that it took over six years from Mrs N’s date of death for the completed Form to be received. Until the Form was received on 1 March 2019, TP were unable to ascertain the level of benefits due. On receipt of this information it became apparent that the Death Grant would be subject to a tax charge. TP do not chase up death notifications until we receive written confirmation and a death certificate, as we are unaware as to who is dealing with the estate. There is no evidence on our records that anyone contacted TP to follow up the death notification...

There is no interest payable in the Death Grant, as this is applicable if TP are at fault and have caused delays in making payment. This however would be paid at the Bank of England current interest rate and not at 8%.

The Form and notes provide guidance and detail the procedure to follow when one of the members pass away. Information can also be found on our website...We also have a dedicated Contact Centre who will offer support and guidance if required.

Once the Form has been received by TP, we would then be able to follow up the case if no further correspondence has been received. This ensures that payments are made in a timely manner.”

15. The Applicants were unhappy with this reply and appealed the decision under TP’s Internal Dispute Resolution Procedure (**IDRP**).
16. On 7 May 2019, the Department for Education, on whose behalf TP administered the TPS, wrote to Mr T N and explained that it did not uphold the complaint. In this letter the Department for Education said:

“I appreciate that you contend that you and your brother did not receive the Pack in 2012 and therefore not made aware of the possibility of receiving a Death Grant payment and the effect of delay in completing the process...it is

more likely than not that the TP representative would have explained that death benefits may be due and that they would be sending paperwork to an agreed address to begin the process of applying for these. In these circumstances, an action lay with you and your brother to either complete the expected paperwork or to contact TP again if you did not receive the paperwork that they sent out. However, I do not see that this would have changed the outcome in this case, as neither you nor your brother received the original paperwork sent to your mother's address and therefore further correspondence sent to that address would also have been unlikely to reach you.

...TP have acted correctly in sending the death benefits paperwork to the address indicated, and that the explanatory notes that were contained within this paperwork explained the need to complete the process before the deadline set by HMRC was reached. Having passed that deadline some time ago...TP are correct in applying the HMRC surcharge before paying over the residue benefits. If you consider that the HMRC surcharge should not apply in this case, you must approach HMRC in regard of this matter."

The Applicants' Position

17. During the telephone call on 17 May 2012, TP did not provide Mr M N with any information about the full death benefits available in the TPS or refer to the Form as "the death benefit form". TP just told Mr M N that his mother's pension ended on her death and, apart from payment of the residual pension, "that was it".
18. If TP had mentioned that a sizeable Death Grant was payable in addition to a small amount of pension arrears, it is "beyond reasonable doubt" that they would have applied for payment without undue delay despite the problems which they were experiencing at the time.
19. It is reasonable to expect that TP should have explicitly mentioned during this telephone call such "a significant element" as the Death Grant.
20. Despite their request for evidence, TP had not been able to provide anything to support its assertion that the Pack, including the Form, was sent to their late mother's home in May 2012. In their view, TP did not send it. They would have received the Pack if TP had done so because they had access to the property at the time for a short period and then had a mail relocation which was in place until January 2013.
21. TP is at fault for failing to actively follow up on the death benefits claim and causing the delay in payment of the Death Grant. TP should have sent at least one reminder letter seeking a reply from them after waiting a reasonable period. Its explanation for not doing this was "disingenuous" since Mr M N clearly informed TP verbally that he and Mr T N were the executors and beneficiaries of their late mother's estate during the telephone call.

22. TP's contention that they have waited six years to return the completed Form is similarly incredulous and disregards the mitigating circumstances surrounding their case.
23. TP should be more "empathetic" when dealing with "those engulfed in grief following the early death of a loved one, particularly those without access to legal support". It should "support claimants in full" and also should have given them the correct information in a timely manner "during an incredibly difficult and stressful time".
24. The Applicants say that:

"We find it appalling that serious "life events" we experienced are being used as a contemptible smokescreen to cover up the multiple failings by TP. Our personal circumstances at an horrific time in our lives are...discrete from the systemic failure in processes at TP..."

We were told that there was a residual pension of a few days, and it is completely unacceptable for us to be made to feel like the guilty party for not following up on what we were led to believe was only a few hundred pounds."
25. The Applicants letter dated 25 February 2019, explaining the mitigating circumstances behind the late application for the Death Grant, should not be taken as "an admission of fault".
26. The "overwhelming failings" of TP significantly outweigh any error on their part.
27. TP has a duty of care to ensure that the Applicants received the full Death Grant available without any tax charge applied to it. TP failed to provide "adequate information or procedural competence" to ensure that the Applicants were able to claim the Death Grant in full and the Applicants are now being unfairly penalised for TP's shortcomings.
28. It should not be the Applicants responsibility to appeal to HMRC for the "unfair" tax charge to be waived. The administrative and procedural failings of TP caused the unfortunate position in which the Applicants find themselves and TP should be held accountable for putting matters right.
29. TP should now pay the full Death Grant of £46,794.22, with interest, to allow for late payment, and compensate them for the considerable distress and inconvenience which the Applicants have suffered in dealing with this matter.
30. During a telephone call on 7 May 2019, TP said that the Department for Education had asked TP "to mark their own homework" by drafting a response to their complaint on its behalf. This is unacceptable and highlights how they are "being penalised" in claiming what is due to their late mother's estate.
31. The Applicants have "never seen or been sent" the January 2011 version of the leaflet entitled "Survivor and Death Benefits" outlining the two-year deadline to apply for the Death Grant in order for it to be classified as an "authorised payment" by

HMRC. They also contend that documentation which they managed to obtain about the TPS published after their mother's death did not mention this stipulation.

32. Following their "freedom of information" request to the Department for Education in 2020, the Applicants have received information which proves "categorically" that TP's administrative and procedural failings are the direct reason for their current situation.

33. The information obtained from the Department for Education demonstrated that during 2012:-

- TP's own key performance indicators (**KPI**) and service level agreements (**SLA**), agreed with the Department for Education, showed significant failings in TP's administration of death benefits.
- In May 2012 TP was performing at a level of only 86% against a 100% target for dealing with death benefits claims.
- In May 2007 TP was experiencing personnel issues which affected its performance. This suggested that the team responsible for the administration of death benefits was underperforming and not delivering, according to TP's own targets.
- The team responsible for the administration of death benefits required training and restructuring during this period to improve the KPI and SLA statistics.
- New management was also brought in to run this team given its "failings".
- System downtime was occurring which also significantly impacted on this team's performance.
- TP's own records describe sustained significant failings of the team dealing with death benefit cases at the time.

34. The Applicants say that:

"Given the ...evidence, it is clear that there were systemic procedural and administrative errors internal to TP which greatly impacted on their ability to successfully administer the bereavement process during the time we were engaging with them to inform them of our mothers' death.

It is clear that, as they were failing to achieve their 100% target of issuing the bereavement pack within one working day of being informed of a member's death and all SLA and KPI measures related to this were significantly underperforming over this time, we have been significantly disadvantaged by their underperformance.

Given this new information above, we would like to once again politely request that TP recognise their failings...and acknowledge...that we were disadvantaged thorough this and that they should now return us to the position we would have been in had we been able to claim the death benefit in full in 2012."

TP's Position

35. When Mr M N telephoned TP on 17 May 2012 and notified it of his mother's death, he was informed that a small amount of pension arrears was payable from the TPS. Mr M N was also informed that TP would be sending him the Pack. It also told him three times that it required the completion and return of the Form before the outstanding benefits could be paid out and Mr M N confirmed his understanding of this at the end of the call. It also invited Mr M N to call again if he had any questions.
36. Mr M N had clearly been made aware that there were unpaid benefits due from the TPS and the process which he had to follow to make a valid claim.
37. The onus had therefore been on the Applicants to complete the Form which they were expecting to receive in the post and return it so that TP could pay out the outstanding benefits available. It is reasonable to expect that they would have contacted TP if they did not receive the Pack in the post after waiting a short period.
38. The procedure which TP has in place allows it to gather the necessary information to verify entitlement and process benefits from the TPS payable to potential beneficiaries. Until it received the completed Form and requested documentation, such as the death certificate and grant of probate, it could not be sure that Mr M N and Mr T N were entitled to receive the Death Grant.
39. TP would not normally discuss details of the death benefits available from the TPS verbally with an informant of a member's death during an initial telephone call as it needed to establish entitlement first. However, TP could provide general information about these benefits, if asked. All callers are notified that information about the TPS is also available from TP's website in the recorded salutation. General information about the Death Grant was not given to Mr M N during the call because he did not request it.
40. The January 2011 version of the leaflet* entitled "Survivor and Death Benefits" containing information about a supplementary death grant and potential tax charges affecting death grants was available on its website in 2012.
41. It is not unusual for TP to await information from other parties to enable it to progress a death benefits claim.
42. There are various reasons why a Death Grant could only be paid more than two years after TP was notified of a person's death without incurring a tax charge, for example, a dispute over probate or a suspicious death.

43. TP's policy is to not send out reminder letters for death benefit claims until after it has received a copy of the death certificate and written notice of who was responsible for dealing with the deceased's estate.
44. It only held the address and telephone number for Mrs N on its records. The Applicants did not provide it with alternative contact details. Even if it had sent a reminder letter to Mr M N at his late mother's address, it is unlikely that he would have received it when he did not get the Pack which was issued to the same address.
45. It had no reason to believe that the Pack did not reach its intended destination by post and it was not returned as undelivered. It is possible that the Pack arrived, but the landlord failed to forward it to Mr M N, but it cannot be held responsible if Mr M N did not receive the Pack under these circumstances.
46. Mr M N suffered ill health himself and was hospitalised. This may also have been a factor in him not receiving the Pack.
47. It is understandable that Mr M N did not complete the Form immediately because of bereavement and ill health. However, it is a requirement for an executor to apply for probate, gather in the deceased's assets and distribute them according to the will. It was therefore incumbent upon Mr M N or his brother to contact TP after receiving notification that there was some money payable to the estate from the TPS.
48. It would calculate the amount of the Death Grant payable to the Applicants from the TPS only after receiving the completed Form and requested documentation.
49. TP has followed its administrative procedures and complied with the Teachers' Pensions Regulations dealing with this death benefits claim. It has also supplied the Applicants with relevant information and offered appropriate assistance when asked.
50. It was unaware of, and not responsible for, the difficult personal circumstances which the Applicants were experiencing back in 2012. Its processes are reliant upon claimants applying for benefits and, in this case, there were unusual circumstances which seemed to have impacted the Applicants ability to respond. It is unfair to blame TP for circumstances beyond its control.
51. It is unfortunate that the Applicants did not return the completed Form when they received the grant of probate and did not make further enquiries despite having been informed that there was an outstanding payment due to Mrs N's estate.
52. During the telephone call in February 2019, Mr T N said that he had looked at the TP website and then became aware that a Death Grant was payable to Mrs N's estate. It is unable to say what prompted Mr T N to look at its website after all this time. There was nothing to prevent him from doing this in 2012 or during the intervening years.
53. TP must comply with HMRC tax rules and deduct the tax charge applicable to the Death Grant. If the Applicants disagree with HMRC's view that the payment is "unauthorised", they can appeal directly to HMRC.

54. It appreciates that going through the process now is as difficult and distressing as it would have been in 2012 but this is a natural consequence of life events rather than any wrongdoing on its part.
55. No compensation award for distress and inconvenience was warranted.
56. As it is not responsible for the late payment of the Death Benefit to the Applicants, no interest was payable.

Adjudicator's Opinion

57. The Applicants' complaint was considered by one of our Adjudicators who concluded that further action was required by TP. The Adjudicator's findings are summarised below:-
 - Having listened carefully to the telephone recording of the call made on 17 May 2012, although Mr M N did not explicitly introduce himself at the beginning of the call, the Adjudicator was satisfied that during the conversation:-
 1. TP became aware that that it was speaking with a close family member of the late Mrs N.
 2. TP was told by Mr M N that he and his brother were the joint executors and beneficiaries of their late mother's estate.
 - Mr M N had asked TP for information about any benefits payable from the TPS.
 - By looking at its records for Mrs N during the call, TP was able to ascertain that a small residual payment representing her unpaid pension from 4 May to 13 May 2012 was available.
 - However, TP regrettably failed to mention that if Mrs N had died before she had been retired for five years, the rest of the pension payments which she would have received would be payable as a Death Grant.
 - In the Adjudicator's view, it would have been inappropriate for TP to have given monetary values for the death benefits payable, but failing to mention the possible payment of the Death Grant to Mr M N during the call was an oversight.
 - This oversight would have been easily rectified if the Pack, which TP sent to Mr M N, had safely arrived at its intended destination.
 - It would clearly have been better for Mr M N to have asked TP to send the Pack to his home address instead of his late mother's, particularly when he lived so far away from her and formal redirection of post was not established with Royal Mail

until 5 July 2012, some one and a half months after TP had sent the Pack on 17 May 2012.

- It was poor administrative practice on the part of TP in not sending at least one reminder letter to Mr M N at his late mother's home seeking a response when it had not heard from him after waiting a reasonable amount of time.
- Regrettably, letters do get lost during transit in the postal system. It was therefore reasonable to expect TP to have checked whether Mr M N had received the Pack rather than solely relying on the Applicants to notify safe receipt, especially if it had been sent using standard post.
- TP contended that, even if it had sent a reminder letter to Mr M N at his late mother's home address, it was unlikely that he would have received it given that he did not receive the Pack. The Adjudicator dismissed this argument as conjecture.
- The Applicants had access to all mail delivered to their late mother's address and a formal mail redirection was in place for a reasonable period following their mother's death. In the Adjudicator's view, there was consequently merit to the Applicants' objection of TP's view that any follow up letter would also have been unlikely to have reached them.
- By not following up to ensure that Mr M N safely received the information contained in the Pack meant that the Applicants were heavily reliant on the general information given about death benefits during the telephone conversation on 17 May 2012. The information provided in the initial telephone conversation was not as complete as it might otherwise have been.
- In the Adjudicator's view, TP's shortcomings were not the main reason for the unfortunate circumstances which the Applicants now found themselves. As TP has pointed out, Mr T N had admitted, in his letter dated 25 February 2019, that the considerable stress caused by his mother's death and his brother's hospitalisation, with hindsight, was the likely reason for their oversight in not pursuing a claim "which should have been dealt with as a formality".
- Furthermore, it could not be disregarded that (a) TP had made it clear to Mr M N during the telephone call that it required the return of the completed Form and sight of the requested documentation in order to pay the outstanding residual pension due and (b) Mr M N confirmed his understanding of TP's requirements at the end of the call.
- While applying for this small payment would clearly not have been a priority for the Applicants in light of their extremely stressful personal circumstances at the time, in the Adjudicator's view, it was reasonable to expect that when their situation

improved, they would have resumed their application for payment and by doing so, would have learnt about the availability of the Death Grant and the two-year deadline.

- The Adjudicator concurred with the Applicants that there had been shortcomings in TP's administrative procedures while dealing with their death benefits claim, but he was unable to conclude that the financial loss which they will suffer by having to pay HMRC the 45% unauthorised payments charge was caused by TP.
- The Applicants have clearly suffered serious distress and inconvenience because of maladministration on the part of TP.
- It was the Adjudicator's opinion that this complaint should be partly upheld and to put matters right, TP should award the Applicants a payment of £1,000 in recognition of the serious distress and inconvenience which they have experienced in dealing with this matter.

58. The Applicants did not accept the Adjudicator's Opinion and the complaint was passed to me to consider. The Applicants provided their further comments which do not change the outcome. I agree with the Adjudicator's Opinion and note the additional points raised by the Applicants.

Ombudsman's decision

59. The Applicants have complained that TP failed to adequately notify them about the Death Grant and did not write to them following the telephone conversation that took place on 17 May 2012. The Applicants argue that as a consequence of these failings they will now incur a prohibitive tax change on the Death Grant, through no fault of their own.

60. To support their complaint the Applicants have provided a significant amount of information that was obtained from TP and the Department for Education as part of a freedom of information request. The Applicants argue that this information confirms that TP was not administering the TPS correctly during the period in question as it was missing agreed KPIs. The Applicants have also highlighted staff shortages at TP in 2012 and point to a restructure of the team dealing with death benefits as supportive of their assertion that the Pack was not sent.

61. Mr M N contacted TP on 17 May 2012 to notify it that his mother had died. During this telephone conversation the only clear indication Mr M N was given about any potential payments due as a result of Mrs N's death was that a small residual pension amount was owed. I agree with the Adjudicator that it is reasonable to expect TP to have mentioned the possibility of a Death Grant payment and to have confirmed the criteria which had to be met to qualify for such a payment. I consider TP's oversight to be maladministration.

62. However, potential payments due as a result of the death of a member can vary markedly depending on the member's individual circumstances and it will have been difficult to impart all the possible permutations regarding any residual benefits in a single telephone conversation. Unfortunately, in this case the TP call handler neglected to provide information regarding any potential Death Grant. To safeguard against such omissions, TP has a process to provide full written details of all the benefits available, including the Death Grant, to potential beneficiaries. This information, and the necessary paperwork to apply for payment, were included, as standard, in the Pack sent by TP to Mr M N with its covering letter on 17 May 2012. I also note from the telephone conversation that Mr M N was clearly told about the Pack and he confirmed that he was happy for it to be issued to his late mother's home address. He was also asked to provide a copy of the Death Certificate.
63. The Applicants have confirmed that a mail redirect was set up on 5 July 2012. This was around one and a half months after Mrs N had died.
64. Given that the Pack apparently did not arrive at its intended destination does not necessarily mean that it was not sent by TP on or around 17 May 2012, as the Applicants clearly believe. It could have been sent and then lost in transit in the postal system. Alternatively, having safely arrived, and predating the commencement of the mail redirect, the landlord could have failed to forward the Pack to Mr M N. TP may not have been able to provide clear evidence that the Pack was sent but this does not rule out these possibilities.
65. I accept that the evidence which the Applicants obtained from the Department for Education following their freedom of information request clearly demonstrates that TP had been experiencing administrative difficulties dealing with death claims during the period when the events which the Applicants have complained about took place.
66. However, my decision is based on the evidence directly applicable to this specific case and not on general information concerning the overall performance of TP on bereavement cases at the time. Although, TP are unable to provide explicit proof of postage that confirms that it had sent the Pack to Mrs N's home, as instructed by Mr M N, I can see no reason why it would not have done this correctly having generated the Pack on its systems. On the balance of probabilities, it is therefore my view that the Pack was most likely lost during transit in the postal system and TP cannot be blamed for this.
67. Having established that, on the balance of probabilities, the Pack was sent I consider that it was poor administrative practice on the part of TP in not sending at least one reminder letter to Mr M N when it had not received a reply from him after waiting a reasonable period of time, especially as the death certificate was outstanding during this period. It is reasonable to expect TP to have checked with Mr M N whether he had received the Pack rather than solely relying on him or his brother to confirm safe receipt of the Pack. In my view, this is not maladministration but a shortcoming in the administrative process in place at the time. In the same way, having been told that the Pack would be sent, Mr M N could have approached TP to make further

enquiries. I accept however that his health concerns at the time would have meant this was less of a priority than it might otherwise have been.

68. Without a follow up letter once the Pack had been issued, the Applicants had to rely on the general information about death benefits given during the telephone conversation on 17 May 2012, or on TP's website. The information provided during the telephone call was unfortunately not as complete as it might otherwise have been.
69. However, TP had made it clear to Mr M N during the telephone call on 17 May 2012 that it required the return of the completed Form and sight of the death certificate in order to pay the outstanding residual pension due and Mr M N confirmed his understanding of this. So even without the Pack, the Applicants should reasonably have been aware that further action was required by them.
70. I accept that given the stressful personal circumstances for the Applicants at the time, it is understandable that applying for this small payment would clearly not have been a priority. However, I consider that it was reasonable to expect that when their situation improved, they would, in their capacity as executors, have resumed their application for payment as soon as possible. If the Applicants had done so, they would then have subsequently learnt about the availability of the Death Grant and the two-year deadline.
71. It is also unfortunate that the Applicants chose not to seek legal or independent financial advice which could have resulted in them learning about the availability of the Death Grant in the TPS much earlier.
72. I agree with the Adjudicator that it was not TP's shortcomings that led directly to a late application for the Death Grant. I do not consider that the financial loss which they will suffer by having to pay HMRC the 45% unauthorised payments charge can be attributable to TP.
73. It is evident, however, that the Applicants have suffered serious distress and inconvenience because of TP's maladministration (see paragraph 61 above) for which they should receive an appropriate award.
74. The complaint is partly upheld against TP and I make the appropriate direction below.

Directions

75. Within 14 days of the date of this Determination, Teachers Pensions shall pay Mr M N and Mr T N £500 each, that is £1,000 in total, in recognition of the serious distress and inconvenience which they have experienced in dealing with this matter.

Anthony Arter

Pensions Ombudsman
18 December 2020