

## Ombudsman's Determination

Applicant	Mrs D
Scheme	NHS Pension Scheme <b>(the Scheme)</b>
Respondent	NHS Business Service Authority <b>(NHS BSA)</b>

## Outcome

1. I do not uphold Mrs D's complaint and no further action is required by NHS BSA.

## Complaint summary

2. Mrs D's complaint concerns the tax penalties she incurred because of the late payment of the annual allowance charge for the 2016/17 tax year, and the interest she accrued between March 2021 and 2 December 2021, on the outstanding payment of £12,325 that was owed to His Majesty's Revenue and Customs (**HMRC**).
3. She would like NHS BSA to reimburse her for these costs and for the additional costs she incurred from her accountant in relation to these issues. She would also like NHS BSA to pay her an award for the distress and inconvenience this matter has caused her.

## Background information, including submissions from the parties

4. Annual allowance is the maximum amount an individual can pay into their pension arrangements in any given tax year before having to pay tax. Annual allowance charges are charges that an individual incurs from HMRC when they exceed the annual allowance limit. Annual allowance charges can either be paid by individual members directly to HMRC, or the member can elect to pay the annual allowance charge using their pension arrangement's scheme pays facility.
5. A scheme pays facility is a facility under which a Scheme member asks NHS BSA to pay some or all of the annual allowance charge, in return for a deduction to their Scheme benefits.
6. NHS BSA offers both mandatory and voluntary scheme pays. Members wishing to use this facility have to complete a scheme pays election form (**the Election Form**) and return it to HMRC within HMRC's deadline of 31 July, in the year following the tax year of the annual allowance charge.

7. If a member chooses to pay all or part of their annual allowance charge on a voluntary scheme pays basis, the member remains solely liable for the charge until it is paid. The member is also responsible for any interest or late payment penalties HMRC may charge, in the event the annual allowance charge is paid after the relevant self-assessment tax return deadline of 31 January.
8. On 30 March 2017, there were email exchanges between Mrs D and her independent financial adviser (**IFA**) concerning the potential annual allowance charge she might incur for the 2017/18 tax year. During these exchanges, the IFA suggested scheme pays as a possible option for paying this charge. The IFA explained that Mrs D could ask NHS BSA to pay the annual allowance charge via the Scheme's scheme pays facility and that doing so was equivalent to taking a loan from NHS BSA at a rate of 3% plus the Consumer Prices Index, until retirement. At retirement, the loan would be levied from Mrs D's pension fund.<sup>1</sup>
9. Between 25 September 2017 and 31 July 2018, there was correspondence between NHS BSA and Mrs D. During this period:-
  - NHS BSA issued an annual allowance statement for the 2016/17 tax year to Mrs D.
  - Mrs D telephoned NHS BSA:
    - to discuss the 2016/17 tax year annual allowance statement, as she believed the figures were incorrect; and
    - to discuss the lifetime allowance (**LTA**) and the annual allowance.
  - NHS BSA issued a revised annual allowance statement to Mrs D for the 2016/17 tax year.
  - Mrs D requested and was sent an Individual Protection (**IP16**) valuation.
  - Mrs D also requested and was sent an estimate of the benefits she could receive if she retired at age 55.
10. The deadline for the scheme pays election for the 2016/17 tax year was 31 July 2018.
11. On 4 January 2019, Mrs D telephoned NHS BSA.<sup>2</sup> During this telephone call:-
  - Mrs D explained that she wanted to use scheme pays to pay the tax on her Scheme pension.
  - The call handler explained that she could use scheme pays but that she would have to fill out an Election Form to do so. The call handler asked if Mrs D had completed one of these forms before.

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<sup>1</sup> The IFA included a calculation of how scheme pays would affect Mrs D's benefits at retirement.

<sup>2</sup> NHS BSA provided a recording of this telephone call to The Pensions Ombudsman.

- Mrs D said she thought she had completed one such form the previous year.
  - The call handler said that they could see that Mrs D had completed an IP16, and that the IP16 would have covered her for the 2017/18 tax year. She may have to complete another individual protection form in the 2018/19 tax year.
12. On 25 January 2019, Mrs D was sent an estimate of the benefits she could receive from the Scheme at retirement (**the January 2019 Statement**). This statement showed that, at retirement, Mrs D could receive a lump sum of £342,283.24 and an annual pension of £51,342.48.
13. On 14 February 2019, NHS BSA received Mrs D's retirement benefits application for her selected retirement date, which was in March 2019.
14. Five days prior to her retirement date, Mrs D received a statement showing her final pension benefits figures (**the March 2019 Statement**). This statement showed that the lump sum Mrs D would receive was £257,492 and her annual pension had increased by £4,000.
15. On 27 March 2019, Mrs D emailed the Deputy Chief Executive Officer of NHS BSA. In summary she said:-
- She was very concerned about the service she had received from NHS BSA.
  - In December 2018, she decided to leave the Scheme and completed all the relevant paperwork to ensure that NHS BSA had it in good time for her leaving date in March 2019.
  - She was pleased to receive the January 2019 Statement which detailed the lump sum she would get. She read the paperwork thoroughly and understood that the amount might be different when the final calculations were completed. She had clearly checked her employment details and, as they had matched, she naturally assumed that the final figures would be similar.
  - When she received the March 2019 Statement, she saw that her lump sum had reduced by £80,000. This reduction was significant and may have made a material difference to her decision to leave the Scheme, which was too late to reverse at that stage.
  - She had spoken to her local pension team and was informed that the difference in the figures might have been due to the LTA and scheme pays, both of which would have been available when she was sent the January 2019 Statement.
  - She said there was no indication in the January 2019 Statement to suggest the change in the figures would be 25% less than predicted, and asked for an explanation on how the error could have occurred, as it had caused her considerable distress. She had based her planning and leaving assumptions on the January 2019 Statement, being aware that there might be a slight variation to the figures.

16. On 29 March 2019, an NHS BSA technical specialist replied to Mrs D. The technical specialist explained how the LTA affected the tax-free cash that Mrs D could receive. The response did not mention anything regarding scheme pays.
17. Mrs D retired and started claiming her pension from the Scheme in April 2019.
18. On 9 May 2019, Mrs D made a complaint through the Scheme's Internal Dispute Resolution Procedure (**IDRP**). In summary she said:-
  - Since her email of 27 March 2019, an increasingly complicated and unusual set of circumstances that involved multiple errors, system failures and missed opportunities had been revealed in relation to the information the Scheme had recorded for her.
  - The primary issue was that scheme pays had not been recorded on her records. So, her pension figures were incorrect. Consequently, she had been disadvantaged and was informed that she had a potential tax charge of £153,000.
  - Over the past three years her pension growth had been in excess of £40,000. She had taken the correct action to ensure that scheme pays was applied to her pension.
  - HMRC had paid the correct amount to NHS BSA to cover the additional tax charge required under scheme pays, but this was not recorded on her records.
  - She believed this position could be quickly resolved because it appeared to be an administrative error. She also had concerns about her pension calculation prior to her retirement date.
  - She requested her pension be reopened and her pension figures amended to include the missing scheme pays record for the 2016/17 to 2018/19 tax years.
  - Once she received the amended figures, she would be in a position to make a decision about her pension based on the correct information. This might involve reversing her decision to claim her pension from the Scheme.
19. Mrs D also added:-
  - She had received three pay rises in the last four years and was fully aware that she would exceed the annual allowance as a result. She was aware that she needed to use scheme pays to pay the associated tax charges for the tax years 2016/17 to 2018/19 inclusive. In order to understand her position, she sought financial advice from the IFA.<sup>3</sup>
  - She believed her Election Form for the 2016/17 tax year had been misplaced by NHS BSA. Although she believed this to be unusual, she also believed it was highly probable, given the information she had received from HMRC.

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<sup>3</sup> Mrs D provided a copy of emails between herself and her IFA concerning this issue.

- There were missed opportunities, prior to her claiming her pension from the Scheme, to highlight that there was no adjustment for scheme pays on her pension record. Had this been done, it would have allowed her to have completed the Election Forms prior to claiming her benefits from the Scheme and she would not have incurred a tax charge for the tax years 2017/18 and 2018/19.
  - She had spoken to NHS BSA between 21 December 2018 and 4 January 2019, where she had asked for further information concerning scheme pays for the 2017/18 tax year. She was told that the previous years' form covered this period, so she did not need to submit another one.
  - In view of the missed opportunities to address the issue of the Election Forms being missing from her Scheme records for the 2017/18 and 2018/19 tax years, she requested that her completed Election Forms for the tax years 2016/17, 2017/18 and 2018/19 be accepted retrospectively. NHS BSA agreeing to do so would reduce the tax charge she had incurred.
20. Between 14 May 2019 and 7 June 2019, there were further exchanges between Mrs D and NHS BSA concerning scheme pays and the process for Mrs D to apply for it.
21. On 17 July 2019, NHS BSA replied to Mrs D's complaint under stage one of the Scheme's IDRP. It said in summary:-
- It had listened to the telephone call of 4 January 2019 and confirmed that its call handler had confused her annual allowance charge with IP16. In light of this mistake, it would exceptionally accept the scheme pays for the 2017/18 tax year on a voluntary basis. Mrs D would need to complete the Election Form. A reduction to her benefits would be required to recover the total balance owing for scheme pays.
  - At the time of the 4 January 2019 telephone call, Mrs D had already missed the deadline for scheme pays for the 2016/17 tax year. NHS BSA could not trace an application for that tax year, and it was unable to accept the election retrospectively, as this was the first occasion Mrs D had queried this issue. The information provided during this telephone call did not deprive Mrs D of using the scheme pays facility, as she had already missed the deadline by the time that telephone call was made. NHS BSA believed that sufficient information was available on its website to confirm that the relevant forms must be submitted if a member wished to opt for scheme pays.
  - It understood that Mrs D expected the LTA and scheme pay figures to have been included in the January 2019 Statement. At the time of that Statement, NHS BSA was unaware of her LTA position and retirement date. It was also unaware whether any protection would have been applicable or if Mrs D had crystallised benefits with another pension provider.
  - The supporting information supplied with the January 2019 Statement explained that if Mrs D was subject to an annual allowance charge and had elected for this

to be paid via scheme pays, no scheme pays deductions had been applied to the estimated pension. The deduction would be applied when she retired.

- Regarding Mrs D's request for scheme pays for the 2018/19 tax year, it noted that this request was received after her retirement date. NHS BSA explained that when a member retired they signed a declaration confirming they had read the retirement guide (**the Guide**). The Guide stated: "...any request for Scheme Pays for a tax charge occurring in the same tax year as you reach age 75 or retire must be made before your NHS pension benefits have been put into payment. Any application for Scheme Pays after your benefits have been put into payment will not be accepted and you must pay any annual allowance charge yourself."
- It did not believe it had put Mrs D at a disadvantage, as information regarding scheme pays for her final year was available in the Guide that she had confirmed she had read when she signed her application for payment of her retirement benefits. As NHS BSA had received Mrs D's election for scheme pays for the 2018/19 tax year, after her benefits were put into payment, her request for scheme pays for that tax year was correctly denied. Mrs D would need to arrange to pay the annual allowance charge for this tax year herself.
- When NHS BSA paid a member's annual allowance charge, this amount was recorded as a notional negative defined contribution (**DC**) account on their pension record. This was similar to NHS BSA loaning a member the money to pay their tax bill, which they must repay with interest when they retired or transferred out. At retirement, the total negative DC account balance owing, including all relevant interest, was converted into a permanent reduction to the member's Scheme benefits using actuarial factors provided by the Scheme actuary.
- As Mrs D had already retired when she requested scheme pays for the 2018/19 tax year, this request could not be accepted, as she was already in receipt of the benefits from which the repayment would be recovered.
- NHS BSA did not have access to HMRC records. Unless the Election Forms for scheme pays were received by the Scheme, it was not able to implement them. As the forms were not received, Mrs D's intentions could not be taken into consideration.
- Due to the way NHS BSA processed its post, it was highly unlikely that any forms sent to it could have been misplaced. Post was handled in a secure environment, with each piece of post dealt with in isolation. It was confident that Mrs D's Election Forms were never received by the Scheme. Once it received an amended Election Form for the 2017/18 tax year, an adjustment to Mrs D's benefits would be calculated to take this into consideration.

22. On 11 December 2019, NHS BSA sent a further letter to Mrs D. It said in summary:-

- Although it had received her election for scheme pays after her pension benefits had been put into payment, after considering her case, it had agreed to pay all her

annual allowance charges in respect of the years 2016/17 to 2018/19 inclusive, using its voluntary scheme pays facility, on this occasion.

- As it was paying her annual allowance charge using its voluntary scheme pays facility, Mrs D remained solely liable for the charge.

23. On 15 December 2019, Mrs D made a complaint through the second stage of the Scheme's IDR. In summary she said:-

- She was pleased that NHS BSA had agreed to accept her Election Forms for the 2016/17 to the 2018/19 tax years inclusive, and that this issue had been resolved. However, she was now in an unfortunate position of having a significant tax bill associated with the 2016/17 tax year, a potential tax bill for the 2017/18 tax year and significant accountancy fees.
- Over the past nine months she had been trying to get the issue with her scheme pays election resolved and it had taken considerable time and effort. She requested:-
  - Reimbursement of the additional accountancy fees of £1,884 she had incurred as a direct result of this issue.
  - Partial reimbursement of the tax liability she had incurred as a result of the delay in scheme pays being applied for the 2016/17 tax year.
- She had submitted the Election Form for the 2016/17 tax year in good faith and was not aware that it had not been received. She also did not have any way of knowing that it had not been received by NHS BSA.
- During a telephone call with NHS BSA, she was incorrectly told that her Election Form for the 2016/17 tax year was on file. She believed that NHS BSA should be responsible for a proportion of the tax liability from the point of that telephone call until the tax liability had been paid to HMRC through scheme pays. NHS BSA should also pay any new charges relating to the 2017/18 tax year that she may incur.
- As a direct result of NHS BSA's maladministration she and her family had suffered unnecessary distress and worry which had impacted on her ability to function both at work and at home.
- She also made the decision to retire and return to work based on incorrect figures, which was a decision she might not have made, had she been provided with correct information.
- She requested compensation for the non-financial injustice she had suffered.

24. On 20 January 2020, NHS BSA replied to Mrs D's complaint under stage two of the IDR. A summary of its response is detailed below in paragraphs 25 to 37.

25. NHS BSA and NHS employers did not accept liability for any interest or penalty charges that may become payable in respect of an individual's voluntary scheme pays election. It was the responsibility of the member to arrange payment of any interest or penalties directly to HMRC. These requirements were detailed within the annual allowance guidance, as published on its website.
26. Other than in the telephone call of 4 January 2019, NHS BSA was not made aware of Mrs D's intention to elect scheme pays or the reliance she had placed upon this facility in her financial planning. So, it had no reason to contact her about scheme pays for the 2016/17 tax year.
27. The estimated benefit statements sent to Mrs D from 31 July 2018 onwards did not account for any reduction of benefits due to scheme pays and made no reference to any attachment to her retirement benefits in this respect. Also, NHS BSA had not acknowledged receipt of an Election Form from her at any time. It seemed reasonable to suggest that this absence of feedback might have prompted Mrs D to consider whether any election she might have made had been received by NHS BSA and to contact it to confirm the position.
28. In respect of her annual allowance charges for the 2017/18 and 2018/19 tax years, Mrs D did not submit valid Election Forms by the relevant deadline of 31 March 2019.
29. During the telephone call on 4 January 2019, the call handler had correctly confirmed that Mrs D would need to submit an Election Form for scheme pays. Upon checking its records for any scheme pays election, it was unable to locate, nor did it confirm, receipt of an Election Form from Mrs D for the 2016/17 tax year.
30. The call handler had also correctly identified that Mrs D had requested an IP16 valuation, however this became the focus of the conversation because it was the only tax related correspondence NHS BSA had received from her at that time. IP16 related to the LTA and was not connected with scheme pays in any way.
31. Towards the end of the call, the call handler appeared to confuse the initial purpose of Mrs D's enquiry, which was to discuss scheme pays, with the actions she had taken in respect of IP16. Mrs D appeared to have accepted the information relating to IP16 as having answered her enquiry about scheme pays and the call ended without the issue being fully discussed or resolved.
32. NHS BSA noted the supporting evidence Mrs D had provided, which confirmed that the IFA had provided her with copies of NHS BSA's guidance on scheme pays and an Election Form, in March 2017. Mrs D had also considered IP16, and had requested a valuation for this purpose, between November 2017 and July 2018.
33. It considered that at the time of the 4 January 2019 telephone call Mrs D had already been familiar with matters relating to annual allowance and LTA charges for a significant period of time. Had she read the information the IFA had provided in March 2017, or she had accessed the guidance via NHS BSA's website, she would have



been in a position to identify that any discussion relating to IP16 was not relevant to scheme pays and vice versa.

34. It believed that Mrs D could have identified that the call handler's response was not fully relevant to her enquiry and brought the focus of the discussion back to the issues relevant to scheme pays. Mrs D would also have been aware that guidance about scheme pays was available via NHS BSA's website. She was at liberty to refer to the published guidance at any time prior to claiming her benefits from the Scheme.
35. Consequently, it was NHS BSA's view that Mrs D was in a position to mitigate for any information the call handler had provided on 4 January 2019 that was not relevant to scheme pays. It accepted there were failings on the part of the call handler in the conversation that took place on 4 January 2019. However, it believed responsibility for any failure to resolve Mrs D's enquiry during this telephone call rested with both parties.
36. NHS BSA's offer to accept the Election Forms for the tax years 2016/17 to 2018/19 did not extend to NHS BSA meeting any interest or charges associated with voluntary scheme pays. These charges remained Mrs D's responsibility. It believed Mrs D's decision to elect voluntary scheme pays was reached with sufficient awareness of the interest charges her elections would entail.
37. It was unable to agree that her circumstances justified further compensation for financial or non-financial injustice as she had suggested.

### **Summary of Mrs D's position**

38. Mrs D said:-

- The first year she exceeded the annual allowance she paid the tax charge herself. In the subsequent years, she elected for scheme pays to pay the tax charge. She was aware that doing so would result in a reduction to her final pension, as she did not have the savings to pay the tax charge directly.
- When she received the notification of exceeding the annual allowance for the 2016/17 tax year and was informed that she had incurred a tax charge of £80,000, she sought financial advice, completed, and sent the Election Form to NHS BSA.
- She was clear that she had completed and sent the Election Form for a number of reasons. These included her not having £80,000 to pay the charge. That amount would have been her entire take home pay for the period. The emails between her and her IFA evidences her intent to pay the tax charge via scheme pays.
- The tax penalty she incurred for the late payment of the annual allowance charge for the 2016/17 tax year was £5,227.98.<sup>4</sup> She paid this penalty on 16 March 2020.

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<sup>4</sup> Mrs D provided a copy of the letter from HMRC confirming this figure.

- She did not incur any tax penalties for the annual allowance charge for the tax years 2017/18 and 2018/19.
- She was very worried about the whole issue with her pension, so she paid for it to be independently reviewed. The cost for this service was £960 and identified that for the 2016/17 tax year she had a remaining tax liability of £12,333.45.
- She notified HMRC of this via her accountant, in March 2021, and asked for a payment plan. HMRC did not respond until November 2021 when it requested the amount of £12,325 plus an additional £1,378 in interest. She did not pay this tax liability until 2 December 2021, as she needed to move funds around to cover the payment. She paid £13,710 to HMRC, of which £1,385 was interest.
- She received a further letter from HMRC in January 2022, stating that she owed a further £588.95 to clear the interest. She paid this on 22 March 2022. The delay in paying was because she was trying to speak to HMRC to understand how this further interest had accrued.

### **Summary of NHS BSA's position**

39. Based on the circumstances of Mrs D's case, as detailed in its IDRPs stage two response, its view is that it had addressed the impact of any conflicting information it may have provided to Mrs D, by offering her the option to elect voluntary scheme pays retrospectively for the years in question, in 2019.

### **Adjudicator's Opinion**

40. Mrs D's complaint was considered by one of our Adjudicators who concluded that no further action was required by NHS BSA. The Adjudicator's findings are summarised in paragraphs 41 to 48 below:-
41. Mrs D asserted that she had submitted the Election Form to apply for scheme pays, in order to pay the annual allowance charge for the 2016/17 tax year. However, NHS BSA did not have a record of receiving this form from Mrs D.
42. While the Adjudicator did not dispute that it was Mrs D's intention to pay the annual allowance charge for the tax year 2016/17 using scheme pays, the onus was on Mrs D to prove that she had sent the scheme pays Election Form for this particular tax year to NHS BSA. Mrs D had not provided any evidence that she had sent the form to NHS BSA, or that it had been received by NHS BSA. Further, NHS BSA did not send Mrs D an acknowledgement that it had received her request and Mrs D did not contact NHS BSA to confirm whether her form had been received.
43. Correspondence between Mrs D and her accountant, discussing scheme pays being an option open to Mrs D, was not sufficient evidence that she had sent the Election Form to NHS BSA for her intention to be actioned.

44. The Adjudicator noted that Mrs D had been provided with incorrect information by NHS BSA's call handler during the telephone call of 4 January 2019. This may have led Mrs D to believe that NHS BSA had received her Election Form for the 2016/17 tax year. However, the deadline to accept Mrs D's Election Form for that tax year had already passed (see paragraph 10 above).
45. So, in any event, Mrs D would have incurred interest on the late payment of the annual allowance charge for that tax year. This interest would not have resulted from any maladministration on the part of NHS BSA. So, it was the Adjudicator's view that NHS BSA could not be held responsible for any tax liabilities that Mrs D had incurred.
46. It was understandable that, given the misunderstanding concerning her scheme pays election, Mrs D wanted to ensure that information about her pension was accurate, so she asked her accountant to assist with this. However, it was the Adjudicator's view that Mrs D wanting to ensure that her pension affairs were in order did not result from any maladministration by NHS BSA, so NHS BSA was not liable to compensate Mrs D for any costs she had incurred.
47. The Adjudicator noted that Mrs D also accrued interest on the outstanding payment of £12,333.45 that was owed to HMRC for the 2016/17 tax year. The interest accrued on this balance was due to HMRC not responding to Mrs D for nine months and not because of maladministration by NHS BSA.
48. As the interest on this balance did not result from any maladministration by NHS BSA, it was the Adjudicator's view that it could not be held liable for payment of the interest.
49. NHS BSA accepted the Adjudicator's Opinion, but Mrs D did not. Mrs D made further submissions in response to the Adjudicator's Opinion, and these have been summarised below.

#### **Mrs D's post Opinion comments**

50. The Opinion did not take into consideration the impact this matter had on her or on the extreme lengths she had to go to, to ensure that she did not lose her home.
51. Prior to taking her pension, she had received several incorrect pension figures. Had she had the correct figures, she may have made a different decision. At this stage there was nothing that she could do about this.
52. After claiming her pension, she had a discussion with her accountant where she discovered that scheme pays had not been applied to the 2016/17, 2017/18 or 2018/19 tax years. She immediately contacted NHS BSA. Given that the annual allowance charge was considerably more than her annual take home pay, and her accountant had documented on her tax return that scheme pays should be applied, she requested that this was applied retrospectively.
53. It took nearly a year and multiple letters, including letters from her MP, before this issue was resolved. She thinks it is reasonable that she receives compensation for

the trauma she endured when being faced with losing her house for a year, as scheme pays was the only way she would have been able to pay the outstanding tax due.

54. She had been honest and transparent about issues that have occurred as soon as she found them. Due to the errors that she experienced from NHS BSA in calculating her pension, she sought independent advice at a considerable cost to herself. She immediately alerted the relevant bodies to additional payments that were owed and made the relevant payments.
55. The Adjudicator, in the Opinion, clearly stated that in the telephone call of 4 January 2019, the call handler was confused and gave her incorrect information. She acted on the information she was given during that telephone call but there has been no recognition of the impact this has had on her or her financial position.
56. Whilst she fully understands that it is her responsibility to manage her own finances, she did not believe that the stress and anxiety that she had to endure, whilst navigating her way through this complex web of financial issues over a prolonged period has been recognised.
57. She would be grateful for further consideration on the unnecessary anxiety, stress, and considerable work that she had to undertake before NHS BSA agreed to accept her retrospective scheme pays elections. All of which was completed while she continued to work in one of the most challenged NHS Trusts in the country.
58. As Mrs D did not accept the Opinion, the complaint was passed to me to review. I have carefully considered the additional comments made by Mrs D but I agree with the Adjudicator's Opinion.

### **Ombudsman's decision**

59. Mrs D has complained about the impact the late payment of the annual allowance charge for the 2016/17 tax year has had on her wellbeing.
60. I appreciate that scheme pays not being applied for the annual allowance charge Mrs D incurred for the 2016/17 tax year resulted in Mrs D having to engage with NHS BSA over a long period to get the matter resolved.
61. However, the failure to initially apply scheme pays to the annual allowance charge Mrs D incurred from the 2016/17 tax year did not result from any maladministration on the part of NHS BSA.
62. I do not dispute the efforts Mrs D made to resolve this issue, and that it would have undoubtedly caused her considerable distress. However, I find that there is no evidence that Mrs D submitted the Election Form in respect of 2016/17, and by the time of the telephone call on 4 January 2019, Mrs D had already missed the deadline for scheme pays for the 2016/17 tax year (see paragraph 21 above).

CAS-36097-P5H5

63. NHS BSA was not under any obligation to exceptionally accept the Election Forms for the years 2016/17 through to 2018/19, it was very reasonable for them to have done so. I do not find that there was any maladministration committed by NHS BSA in not doing so prior to taking that decision, therefore, I do not find that there are any grounds for awarding a distress and inconvenience payment.

64. I do not uphold the complaint.

**Anthony Arter CBE**

Deputy Pensions Ombudsman  
7 February 2024