

Ombudsman's Determination

Applicant	Mrs N
Scheme	NHS Pension Scheme (the Scheme)
Respondent	NHS Business Services Authority (NHS BSA)

Outcome

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

Complaint summary

2. Mrs N has complained that NHS BSA asked her for evidence of her date of birth, her marriage and her husband's date of birth. She stated that she did not have a birth certificate and was unwilling to send her passport to NHS BSA in the post. She commented that she had offered to have her documents witnessed locally by the NHS.
3. Mrs N said that the certified copy of her paper driving licence, which she had provided to NHS BSA, should have been adequate evidence of her date of birth.
4. Mrs N said that NHS BSA's unwillingness to accept the evidence that she had offered had held up the payment of her retirement benefits.
5. Mrs N indicated that, as she was entitled to receive a one-off lump sum payment, which would extinguish any entitlement to a spouse's pension, she did not intend to provide any evidence of her marriage or her husband's date of birth.

Background information, including submissions from the parties

6. Mrs N is a member of the Scheme which is administered by NHS BSA. She had two periods of pensionable service. The first resulted in her receiving a refund of contributions from the Scheme. The second, which was from 27 October 2008 to 4 February 2018, resulted in a deferred pension being retained for her in the Scheme. This pension was payable from age 65.
7. As Mrs N approached age 65, in September 2019, she applied for payment of her benefits from the Scheme.

8. NHS BSA asked Mrs N to provide proof of her date of birth in the form of either her birth certificate or her passport. It also asked for her marriage certificate and her husband's birth certificate. It said that it was prepared to accept certified copies of these last two documents, provided that they were certified in accordance with the official guidance on certification.
9. The only document provided by Mrs N with her completed deferred benefits claim form (AW8P) was a copy of her marriage certificate. This was not certified correctly.
10. On 17 September 2019, NHS BSA wrote to Mrs N asking her to provide the missing documents.
11. On 24 September 2019, Mrs N emailed NHS BSA regarding the fact that her benefits had not been paid to her. This led to a formal complaint being raised under stage one of the Scheme's Internal Dispute Resolution Procedure (**IDRP**).
12. On 5 November 2019, NHS BSA provided its stage one IDRP response. It stated that an application for payment of benefits was not valid without the requested certificates.
13. On 8 November 2019, Mrs N submitted her complaint under the IDRP stage two.
14. On 11 December 2019, NHS BSA provided its stage two IDRP response. It did not uphold Mrs N's complaint. In its response, NHS BSA repeated the points that it had made at stage one.
15. On 14 December 2019, Mrs N provided NHS BSA with a copy of her paper driving licence as evidence of her date of birth. This was certified by a police officer.
16. On 16 December 2019, Mrs N's husband emailed NHS BSA to confirm that he did not wish to receive any spouse's pension benefits from the Scheme. He said that Mrs N would be opting to receive a one-off lump sum payment which would extinguish any entitlement to a spouse's pension. He also said that he had asked Mrs N to submit her marital status as being single for the purposes of claiming her benefits.
17. On 20 December 2019, NHS BSA wrote to Mrs N asking her to provide evidence of her date of birth.
18. On 24 December 2019, NHS BSA stated in an email to Mrs N that the copy of her paper driving licence was not acceptable evidence of her date of birth. It said that it would accept either an original or a certified copy of her birth certificate, her photo driving licence or her passport. It also drew Mrs N's attention to section 2.1 of the deferred benefits claim form which stated:

"You must enclose your original birth certificate or an original certified copy of it. If you do not have an original birth certificate you may send your original passport. All documents will be returned to you promptly."
19. In this email NHS BSA also said that:

“You will see that only birth certificate or original passport is mentioned and not driving licence. As advised in our letter dated 20/12/2019 you can send your photo driving licence.”

20. On 24 December 2019, Mrs N disputed NHS BSA’s interpretation of its letter of 20 December 2019. She stated that the wording, “such as a passport or photo driving licence” suggested that these were only examples of the types of evidence required. She felt that this suggested that other forms of identification were acceptable. There were a number of further communications between the two parties which continued to debate this point.
21. Mrs N told us that she was not in possession of a birth certificate.
22. NHS BSA confirmed that Mrs N’s pension was finalised in April 2020. The Head of Service had agreed that, by exception, it would accept the certified copy of Mrs N’s non-photo driving licence as proof of her date of birth. Her pension was put into payment on 30 April 2020 with full arrears paid. Mrs N did have the option to receive a one-off lump sum, but she elected to receive a monthly pension.

Adjudicator’s Opinion

23. Mrs N’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 below:-
 - The Adjudicator noted that the Regulations that govern how the Scheme is run state that a person claiming benefits shall provide “evidence of entitlement” and “information required in order to deal with the claim”.
 - The Adjudicator commented that, within the pensions industry, it is a requirement that organisations responsible for the administration of pension schemes obtain evidence of key dates. He noted that the date of birth is a key date as it determines when retirement benefits become payable. He went on to say that evidence of marriage and spouse’s date of birth are also key pieces of information in circumstances where a pension may become payable to the spouse on the death of the member. The Adjudicator was of the opinion that NHS BSA was correct in ensuring that it obtained this evidence before offering Mrs N her retirement benefits.
 - The Adjudicator stated that there is no standard approach across the pensions industry in relation to which documents are accepted as evidence of date of birth. He noted that sections 2.1 and 2.2 of the deferred benefits claim form (AW8P) stated what evidence NHS BSA was willing to accept. In the opinion of the Adjudicator, what NHS BSA had requested was reasonable and was not inconsistent with the rest of the pensions industry. However, the Adjudicator acknowledged the fact that Mrs N did not have a birth certificate would have restricted the options available to her. He also noted that NHS BSA did offer some

additional flexibility and that, by special concession, Mrs N's retirement benefits were settled in April 2020. While this was seven months after her normal retirement date, her pension was backdated to reflect this.

- The Adjudicator agreed that the phrase "such as a passport or photo driving licence", in NHS BSA's letter of 20 December 2019, suggested that alternative forms of evidence may have been acceptable. However, the Adjudicator considered it reasonable that the agreement of NHS BSA would have to be obtained in advance when looking to provide an alternative type of document as evidence.
- In relation to Mrs N's offer to get her certificates witnessed locally by the NHS, the Adjudicator took the view that, while this was a reasonable offer for her to make, the NHS is not structured in a way to accept this approach. NHS BSA is the specific department that is required to undertake the witnessing of certificates. Each other department would have to be focusing on its own responsibilities.
- The Adjudicator noted that Mrs N said that she intended to take all of her benefits in the form of a lump sum. She gave this as the reason why evidence of her marriage and her husband's date of birth was not required. However, while this option was available to her, she did eventually opt to take a retirement pension. The evidence of marriage and Mrs N's husband's date of birth requested by NHS BSA was, in the opinion of the Adjudicator, relevant.
- The Adjudicator stated that he understood that Mrs N was unhappy about the delay in paying her benefits. However, in his opinion, this delay was mainly due to Mrs N's unwillingness to provide evidence of her date of birth in the form requested by NHS BSA.

24. Mrs N did not accept the Adjudicator's Opinion and the complaint was passed to me to consider.

25. Mrs N provided her further comments which do not change the outcome. She said:-

- She and her husband are in receipt of a number of private pensions and had never been asked to post original copies of documents. She asked for evidence that this is normal practice.
- Her rights to privacy and security have been violated and she has been left open to the possibility of fraud.
- The fact that the Pensions Ombudsman's Office uses encrypted emails but considers it reasonable for her to send her passport in the post is hypocritical.
- Her husband did not join the Scheme. He has a right to privacy under the Data Protection Act.

26. I agree with the Adjudicator's Opinion and note the additional points raised by Mrs N.

Ombudsman's decision

27. Mrs N's complaint relates to the evidence requested by NHS BSA before it was able to pay her retirement benefits from the Scheme.
28. The member's date of birth is a piece of information that has to be validated for all scheme members across the pensions industry. NHS BSA is responsible for administering the benefits of the Scheme members and paying the correct level of benefits to those members.
29. I find that NHS BSA was acting fairly in its requirement for Mrs N's date of birth to be validated before paying her benefits. I am also satisfied that the forms of evidence that it was prepared to accept was not unreasonable.
30. I acknowledge the concerns expressed by Mrs N in relation to sending her passport in the post. However, I also note that HM Passport Office regularly uses the Royal Mail to issue new passports to individuals. In addition, more secure options such as Recorded Delivery are available for important documentation. Further, NHS BSA informed Mrs N that it could accept certified copies of original documents. Mrs N could have chosen to use a more secure method of postage or have provided properly certified documentation to address her concerns had she so wished.
31. The Scheme provides valuable benefits, not only to its members but also to the spouses and dependants of members. In the event that Mrs N dies before her husband, he may be entitled to a pension from the Scheme. It will not be possible for NHS BSA to pay Mrs N's husband a pension unless it has seen evidence of their marriage and his date of birth. So, I find it reasonable for NHS BSA to request this evidence.
32. Mrs N has argued that the requirements caused a delay in the payment of her benefits. However, given that NHS BSA was within its right to request certain documentation, I do not find that NHS BSA caused delays in the payment of Mrs N's benefits.
33. I do not uphold Mrs N's complaint.

Anthony Arter

Pensions Ombudsman
12 April 2021