

Ombudsman's Determination

Applicant	Dr S
Scheme	NHS Pension Scheme (the Scheme)
Respondents	NHS Business Services Authority (NHS BSA)

Outcome

1. Dr S' complaint is upheld and to put matters right NHS BSA should pay him £500 in recognition of the distress and inconvenience caused by the NHS BSA's failure in making payments in a timely manner.
2. My reasons for reaching this decision are explained in more detail below.

Complaint summary

- 3.

Background information, including submissions from the parties

4. NHS BSA received Dr S' completed AW8 retirement form on 3 August 2015. The form said Dr S would be taking Voluntary Early Retirement on 11 November 2015.
5. Dr S was entitled to receive the lump sum the day after he retired and the pension was to be paid one month in arrears. The payment of the retirement benefits was authorised by the NHS BSA's paying agents on 10 December 2015.
6. The retirement form also said Dr S would be re-employed with the NHS on 13 November 2015.
7. Dr S complained to the BSA about the delay of his payments. In summary, Dr S made further enquiries of NHS BSA concerning the progress of his application every 3 to 4 weeks and was reassured that everything was in place. He was told there were no further forms to complete.
8. He was unhappy that he would not be sent a letter providing him with the actual figures in relation to his level of pension benefits until 10 days before the crystallisation date, but in the event no confirmation letter was received on that date.

9. On the 11 November 2015, Dr S called to enquire about why he had not received his payment. He was told by NHS BSA that it would be a further few days before the payment could be paid.
10. A supervisor told Dr S the statutory requirement was for the lump sum to be paid within one month of the crystallisation date which was different to what Dr S had understood from previous communications. Dr S was subsequently sent an email to make a formal complaint without any other communication.
11. The lump sum was not paid until 21 December 2015. This was 38 days after it was due.
12. Dr S was told at this point there was another form in order to complete to receive his pension payment, though he says he had not been told this when he made enquiries in July through to November 2015.
13. The pension arrears were eventually paid on 12 January 2016, and the first regular payment was made on 31 January 2016.
14. NHS BSA said in its first stage Internal Dispute Resolution (IDR) letter, in January 2016, that the payment of Dr S' pension had been delayed because he had not provided details of his re-employment with NHS following his retirement. NHS BSA apologised for misleading information it gave Dr S previously and it also apologised for distress and inconvenience caused by the late payment of the lump sum payment. Dr S was also informed that he would be contacted concerning his entitlement to an interest payment on the delayed lump sum.
15. In the second stage IDR letter of 7 March 2016, NHS BSA apologised again for its failure to pay his lump sum in a timely manner. It further apologised that NHS BSA had not paid the interest due to Dr S in respect of the late payment, but that Dr S could expect to receive that payment stating: "within the next 10 days. The interest will be calculated up to the date of this letter."
16. Because Dr S had not received the late interest payment, he referred his complaint to our Service in late April 2016. Following our involvement, NHS BSA made the interest payments on 27 May 2016.

Adjudicator's Opinion

17. Dr S' complaint was considered by one of our Adjudicators who concluded that the NHS BSA ought to pay him £500 in recognition of the numerous continued delays in the payment of the lump sum, regular pension income and the late interest payments. The Adjudicator's findings are summarised briefly below:
 - the delays were multiple in number and excessive;
 - these delays compounded the distress and inconvenience caused to Dr S as a result;

- the delay in commencing regular pension payments could have been avoided had Dr S been notified earlier that there was a further form that required completion with regard to his re-employment. This could have been done when he completed the initial AW8 retirement form, or he could have been informed of this on the subsequent occasions when Dr S contacted NHS BSA;
 - as NHS BSA did not keep to its own promised deadlines, Dr S was further frustrated and unhappy with the NHS BSA's failure to act in good time; and
 - Dr S' interest payments were prioritised following the involvement of this Service, following which the payment was then made sooner than it would have otherwise have been.
18. NHS BSA did not accept the Adjudicator's Opinion and the complaint has passed to me to consider. It acknowledged the complaint could have been avoided, but it had dealt with the complaint in a thorough and timely manner. It did not consider £500 for compensation to be justified, as in this case it had apologised to Dr S and paid the member interest up to the current date. It re-iterated that the pension payments were late in part due to the fact that Dr S had not completed the necessary re-employment form. It also commented that NHS BSA paid interest on the delayed payments to a later date than the one when the paperwork was sent to its paying agent.
19. In short, Dr S was unhappy that NHS BSA failed to make mention of the conflicting and incorrect information he was given throughout the process. He said the interest paid does not compensate him for the considerable distress and anguish caused, and the interest represents his own money lost as a result of the delays, and is not compensation. The paying agent was unaware he had not been sent the re-employment form and he was told by the paying agent that NHS BSA ought to have arranged this. The paying agents then sent the form directly to Dr S which he completed.
20. I have considered the comments made by both parties. I agree with the Adjudicator's Opinion, summarised above, and I will therefore only respond to the key points made by the NHS BSA for completeness.

Ombudsman's decision

21. I accept that NHS BSA investigated Dr S' complaint in a timely manner. I also note that interest was paid to the date the payment was made rather than the date the paying agent receiving confirmation of Dr S' re-employment.
22. However, NHS BSA failed to pay the lump sum within the statutory time frame. NHS BSA were also responsible for the delay in the commencement of Dr S' regular pension income.
23. NHS BSA was aware that Dr S was retiring, and that he would subsequently be returning to employment. In the circumstances, NHS BSA ought to have made Dr S

PO-12611

aware of the requirement to receive the necessary completed form concerning his re-employment before commencing payment of his pension.

24. As a result, the unnecessary delay in the payment of his pension benefits has caused Dr S significant distress and inconvenience and so it is appropriate that he receive a £500 payment in recognition of this.
25. Therefore, I uphold the complaint against NHS BSA.

Directions

26. Within 28 days of the date of this determination, NHS BSA shall pay Dr S £500 for the significant distress and inconvenience caused to him by the delays in making the relevant payments.

Anthony Arter

Pensions Ombudsman
27 July 2016