

Ombudsman's Determination

Applicant	Mrs N
Scheme	Smiths Industrial Pension Scheme (the Scheme)
Respondents	Smiths Pensions Limited (the Trustee)

Outcome

1. I do not uphold Mrs N's complaint and no further action is required by the Trustee.
2. My reasons for reaching this decision are explained in more detail below.

Complaint summary

3. Mrs N's complaint is that the Trustee did not make direct contact with her, in 2002, in relation to the distribution of the death benefits from the Scheme following the death of her father. Instead the Trustee liaised with her mother. Mrs N says that, as a result, she did not receive the letter or the cheque for the payment of the death benefits.

Background information, including submissions from the parties

4. Mrs N's father (**Mr Y**) was a retired member of the Scheme when he died on 11 March 2002. Mrs N was 18 years old at the time.
5. On 12 March 2002, Mrs N's mother (**Mrs O**) informed the Scheme that Mr Y had died the previous day. The note of the telephone conversation records that Mrs O is Mr Y's former wife and shows her details as the contact to write to about the death. The note says that "Daughter is 18 & unemployed" and "ex-wife has no contact with family."
6. On 14 May 2002, Mrs O completed a Trustee's enquiry form which she returned to the Trustee along with a short version of Mrs N's birth certificate.
7. On 24 May 2002, the Trustee wrote to Mrs O and asked to see a full copy of Mrs N's birth certificate. The Trustee also asked for confirmation as to whether Mrs N was in full time education in order to establish her eligibility to a dependant's pension.
8. Mrs O responded on 5 June 2002 confirming that Mrs N was not in full time education but that she was undertaking a 2 year NVQ. Mrs O enclosed a full copy of Mrs N's

birth certificate, a copy of her and Mr Y's marriage certificate and a letter from the Child Support Agency confirming that maintenance payments had been stopped following Mr Y's death.

9. On 14 June 2002, the Trustee wrote to Mrs O and asked for Mrs N's authorisation to approach her place of work to obtain further details. Mrs N provided the necessary authorisation on 17 June 2002.
10. The Trustee decided that Mrs N was not eligible for a dependent's pension but that she should receive the lump sum death benefit of £36,879.22.
11. In July 2002, Mrs O contacted the Trustee and asked that the cheque for the lump sum death benefit be made payable to her rather than Mrs N. She explained that she had a separate savings account which she intended to pay to her daughter when she reached 21 years of age.
12. On 9 September 2002, the Trustee issued a cheque for £36,879.22 payable to Mrs N. The letter, with the cheque enclosed, was addressed to Mrs N at Mrs O's address. The cheque was cashed on 13 September 2002.
13. On 16 February 2017, Mrs N wrote to the Trustee enquiring about Mr N's death benefit. She was advised that the lump sum death benefit had been paid to her in 2002. Mrs N said she had not received the cheque or the letter. In a letter to the Trustee, dated 24 March 2017, Mrs N confirmed "In 2002 I was living in a bedsit.....It was a shared letterbox so I had all my post going to my Mum's ... address."
14. Mrs N's complaint was considered under the Scheme's Internal Dispute Resolution Procedure during which the Trustee asked its bank to carry out a beneficiary trace to establish who had cashed the cheque. The bank confirmed they were unable to do so because the cheque had been presented more than 6 years previously.

Adjudicator's Opinion

15. Mrs N's complaint was considered by one of our Adjudicators who concluded that no further action was required by the Trustee. The Adjudicator's findings are summarised briefly below:-
 - It is not unusual for a scheme administrator to have one point of contact when a scheme member dies. This is often the person who informed the administrator of the member's death, provided the death certificate and other details about potential beneficiaries.
 - The Trustee cannot be held responsible if Mrs N did not receive the letter. The Trustee had done all it reasonably could to ensure the letter would reach her. The cheque was made payable to Mrs N and the letter was addressed to her at the postal address she was using at the time.

- For the complaint to be upheld financial loss needs to flow directly from maladministration by the Trustee. That Mrs N was unaware that a letter had been sent to her was not the cause of the loss. The cause was because, the letter did not for whatever reason, reach her and the cheque enclosed with that letter was cashed by an unidentified source.
16. Mrs N did not accept the Adjudicator's Opinion and the complaint was passed to me to consider. Mrs N provided her further comments which do not change the outcome. I agree with the Adjudicator's Opinion and I will therefore only respond to the key points made by Mrs N for completeness. These are as follows:
- The Trustee did not have consent to discuss the matter with Mrs O. They should not have divulged the amount or when they had sent the payment to Mrs O. This is personal information that has led to the payment being stolen from her.
 - The Trustee did nothing to ensure the letter and cheque would reach her. If she had known that the payment had been made it would not have been stolen.
 - She was never asked for her address or her contact details. The Trustee did not ask her to confirm her address until 2017. She only used her mother's address for post that she was expecting, i.e. bank statements, phone bills, etc.
 - The Trustee should have been alerted to the potential issues when her mother asked that the cheque was made payable to her.

Ombudsman's decision

17. Mrs N's complaint concerns the manner in which the Trustee dealt with the distribution of the lump sum death benefit following the death of her father in 2002. There is no dispute that the Trustee decided Mrs N should be the sole recipient of the monies. The dispute that arises is that Mrs N says the letter and the payment were never received by her.
18. Mrs N says that the payment for the death benefit did not reach her because the Trustee failed to deal directly with her. I agree with the Adjudicator that it is not unusual for a scheme administrator to have one appropriate point of contact when dealing with such matters. Whilst I can see why Mrs N may now take the view that she was the most appropriate person to deal with the matter that may not have appeared to have been the case to the Trustee, or to Mrs N, at the time of Mr Y's death.
19. It was Mrs O who contacted the Trustee to advise that Mr Y had died. Mrs N was presumably aware that her mother had contacted the Trustee at the time but did not suggest that she should be the point of contact instead. Nor did she appear to have any issue with her mother dealing with matters in June 2002, when she gave her authorisation for the Trustee to approach her place of work to obtain further details. Mrs N clearly knew that the Trustee was writing to her mother's address concerning

matters that affected her but she did not take issue with that or contact the Trustee herself. There was no clear evidence to have caused the Trustee not to accept Mrs O as an appropriate point of contact.

20. Mrs N says that the Trustee did not ask for her address or her contact details in 2002. Whilst I accept it would have been good administrative practice to have checked Mrs N's details it seems likely the Trustee simply assumed she lived at the same address as her mother. That does not to my mind appear unreasonable, particularly given that they had already received a response from Mrs N to a letter they had sent to her mother's address.
21. But in any event, Mrs N openly admits that she used her mother's address because she considered it unsafe to have certain correspondence delivered to her own address. In my view, had the Trustee asked Mrs N for her contact details in 2002, she would, on the balance of probabilities, have still given her mother's address. I see no reason why she would have done otherwise.
22. Mrs N says the Trustee should have been alerted to potential issues when her mother asked that the cheque was made payable to herself. To an extent I can agree that the Trustees might have seen this as an unusual request. But they did not accede to the request. The cheque was made payable to Mrs N and sent with a letter that was correctly addressed to Mrs N at the postal address she used for confidential correspondence. I do not consider the Trustee's actions constitute maladministration.
23. Nor do I think they can be held responsible if Mrs N's letter was intercepted and the cheque encashed by another person. In my view, that could still have happened even had the Trustee told Mrs N that she should expect a letter. The only difference would be that she could have established where the cheque had been encashed sooner.
24. For the reasons I have given I do not uphold Mrs N's complaint.

Anthony Arter

Pensions Ombudsman
21 February 2018