

Ombudsman's Determination

Applicant	Mr S
Scheme	British Steel Pension Scheme (the BSPS)
Respondents	The Trustee of the BSPS (the Trustee); and B.S. Pension Fund Trustee Limited (BSPFTL)

Outcome

1. I do not uphold Mr S' complaint and no further action is required by the Trustee or BSPFTL.

Complaint summary

2. In connection with the restructuring of Tata Steel (UK) Limited, BSPS members were offered the choice of transferring into the new BSPS (**the New BSPS**) or remaining within the BSPS, which was likely to enter into the Pension Protection Fund (**the PPF**). This choice would be communicated to members during the Time to Choose exercise.
3. Mr S was not notified of the BSPFTL's Time to Choose exercise. As a result, he was not afforded the opportunity to transfer his benefits into the New BSPS. Consequently, he remained a member of the BSPS and moved into the PPF.

Background information, including submissions from the parties

4. Mr S began receiving his benefits in 2016.
5. Prior to implementing the Time to Choose exercise, BSPFTL instructed a tracing firm to conduct member tracing to ensure that BSPFTL held members' most up to date address details. In Mr S' case, the trace connected him to an address in Scunthorpe (**the Scunthorpe address**) which matched what was held by the BSPS administrator.
6. On 2 October 2017, BSPFTL wrote to Mr S at his Scunthorpe address and explained the options available to members through the Time to Choose exercise. As well as background information, the letter enclosed an option form. The option form offered

the choice of remaining within the current BSPS or transferring into the New BSPS. The deadline for response was 11 December 2017.

7. Sometime in November 2017, Mr S went abroad. He was outside of the UK until 8 March 2018.
8. On 30 November 2017, BSPFTL sent a reminder letter and another option form. Again, this was sent to the Scunthorpe address.
9. On 4 December 2017, BSPFTL issued a further letter to the Scunthorpe address. This outlined the government plans to change the PPF rules. The letter contained a further option form. The deadline for response was extended until 22 December 2017.
10. A further reminder was issued to the Scunthorpe address on 12 December 2017.
11. On 22 December 2017, the deadline for the Time to Choose exercise passed.
12. On 23 January 2018, BSPFTL wrote to Mr S and explained that it had not received a completed option form prior to the deadline. As a result, Mr S was to remain within the BSPS which would be moving to the PPF.
13. On 29 March 2018, Mr S received his first payment since moving to the PPF. He received a decrease in his benefits, so contacted the British Steel Pension Office. He was told that several letters had been issued to the Scunthorpe address, as this was his last known address. During the phone call, Mr S asked to transfer into the New BSPS and confirmed this request via email.
14. On 25 April 2018, Mr S complained to the BSPS administrator. He said that he had not received any correspondence about his benefits despite having been in receipt of benefits for two years. He said that he no longer lived at the Scunthorpe address, although he did own the property. He confirmed that he had been renting the property to a tenant, however the tenant had not forwarded any correspondence. He also complained that he had been out of the country from early November 2017 until 8 March 2018; so, he knew nothing of the changes. Mr S confirmed that he had a new address (**the Skegness address**), however he had not updated this as he found that post addressed here was unreliable.
15. On 12 July 2018, the Trustee provided a response under stage one of its Internal Dispute Resolution Procedure (**IDRP**). The Trustee confirmed that its response was on behalf of BSPFTL, the former trustee who had conducted the Time to Choose exercise. It said that BSPFTL had issued clear instructions in relation to the Time to Choose exercise and had sent multiple reminder option forms. The Trustee was of the view that it was Mr S' responsibility to update the BSPS administrator of any changes of addresses, which he did not do. It concluded that no administrative errors had been made, so it was unable to uphold the complaint.
16. On 28 August 2018, the Trustee provided its stage two IDRP response. It acknowledged that Mr S had been out of the country from early November 2017 to 8

March 2018 but said that it was his responsibility to ensure that all his post could be dealt with in his absence. It concluded that there had been no administrative errors, so it did not uphold the complaint.

17. On 9 November 2018, the Trustee provided further comments. It said:-

- Mr S did not provide the BSPS administrator with the Skegness address until the Time to Choose exercise had completed. It was his responsibility to ensure that he had updated his address, so the Trustee would not take responsibility for letters not reaching him.
- Mr S decided not to provide the Skegness address because the post was unreliable. If this was the case, he should have ensured that the Scunthorpe address was functioning correctly, and his tenants were forwarding or storing his post.
- During his period away, from early November 2017 until 8 March 2018, it remained his responsibility to ensure that all post was dealt with. It was not reasonable for BSPFTL to have anticipated Mr S' individual circumstances, so it could not have done anymore to ensure that letters were received.
- There have been no administrative errors made by BSPFTL, therefore the complaint should not be upheld.

Adjudicator's Opinion

18. Mr S' complaint was considered by one of our Adjudicators who concluded that no further action was required by the Trustees. The Adjudicator's findings are summarised below:-

- The Adjudicator was satisfied that BSPFTL handled the Time to Choose exercise appropriately. Prior to writing to Mr S, BSPFTL instructed a tracing firm to ensure that the address it held for Mr S was consistent with an address on his credit file. The address matched and so the Adjudicator felt that it was reasonable for BSPFTL to expect the post would be received.
- Furthermore, the Adjudicator was of the view that Mr S was responsible for updating his address. He was no longer residing at the Scunthorpe address, so he should have taken steps to provide new contact details. Mr S has argued that the Skegness address did not receive post on a consistent basis, so he decided it was best to continue to have post addressed to his rental property. The Adjudicator was of the view that Mr S should have done more to ensure that all post was either redirected or stored for him.
- Mr S complained that he was out of the country, so he was not afforded an opportunity to transfer. The Adjudicator did not agree that this was a sufficient reason to uphold the complaint. Given the length of time that Mr S was away, he should have taken steps to inform BSPFTL of his plans or put arrangements in

place to ensure he did not miss receiving important post. In addition, by the time he had gone on holiday, BSPFTL had already written to the address it held on file; had Mr S updated this, he would have known of the Time to Choose exercise.

- The Adjudicator said that he understood Mr S' frustration, however he did not agree that BSPFTL were responsible for him missing the opportunity to transfer to the New BPS. As a result, he did not agree that there had been any maladministration.

19. Mr S did not accept the Adjudicator's Opinion and the complaint was passed to me to consider.

20. Mr S provided his further comments which do not change the outcome. He has argued that:-

- At the time, he was having difficulties with the tenants at the Scunthorpe address. It was not his fault that they did not forward or store his post.
- More should have been done to contact him. He does not see how it was acceptable to change how his benefits were paid without his involvement.
- He cannot understand how anyone can change the source of his benefits payments without his involvement.
- The financial loss that he has suffered is not insignificant.

Ombudsman's decision

21. I agree with the Adjudicator's Opinion and note the additional points raised by Mr S.

22. I can only uphold a complaint in circumstances where I am satisfied that the respondents' maladministration has caused financial loss, distress, or inconvenience.

23. In this instance, communications did not reach Mr S, which meant that he missed the opportunity to transfer into the New BPS. Another factor was that Mr S spent a significant portion of the Time to Choose exercise out of the country, which could have contributed to him missing the deadline.

24. When it instigated the Time to Choose exercise, BSPFTL instructed a tracing firm to ensure that the addresses it was writing to were consistent with the addresses on members' credit files. The tracing firm located the Scunthorpe address for Mr S and this matched the address BSPFTL held on file. I am satisfied that BSPFTL acted prudently when it cross-referenced Mr S' address.

25. At the point when Time to Choose documentation was issued, Mr S was already receiving benefits from the BPS. Given that he was relying on his benefits to form an important part of his income, I would have expected him to have ensured that his address was kept up to date. While I appreciate that he also had problems receiving

post at the Skegness address, it was his responsibility to ensure that any important post would be seen by him.

26. Mr S has said that he was out of the country during the Time to Choose exercise, so he should be afforded a further opportunity to transfer. Again, I find that Mr S should have done more to inform BSPFTL of his whereabouts. His travel plans were pre-meditated, and he would have had ample opportunity to ensure that BSPFTL were aware that he would be away. What is more, the first Time to Choose letter was issued before he left, so had he contacted BSPFTL, it is likely he would have been informed of the Time to Choose exercise.
27. Mr S has argued that no one should be allowed to change where his benefits are being paid from without his permission. However, Mr S has always been a member of the BPS. The Time to Choose exercise offered him the opportunity to move to the New BPS but, as he did not receive or accept the opportunity to do so, he remained in the BPS. Therefore, the source of his benefits did not change.
28. While I understand Mr S' frustration at a reduction in his benefits, I do not find BSPFTL responsible for him missing the opportunity to transfer. I do not agree that there has been maladministration, so I do not uphold Mr S' complaint.

Anthony Arter

Pensions Ombudsman
1 October 2020