

Ombudsman's Determination

Applicant	Mr D
Scheme	NHS Pensions Scheme (the Scheme)
Respondent	NHS BSA

Outcome

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

Complaint summary

2. Mr D's complaint is in two parts. His first complaint concerns the system NHS BSA has in place to notify him of the donations he makes to charity through the Payroll Giving Service (**Payroll Giving**). He is dissatisfied that he does not receive regular notifications of the payments made on his behalf so that he can keep up to date with the donations he has made, (**Complaint 1**).
3. Second, Mr D is unhappy that there is not an option on the agency's Donation Choice Form (**the Form**), for him to donate his full pension to his chosen charity. (**Complaint 2**).

Background information, including submissions from the parties

4. Mr D is entitled to a survivor's pension from the Scheme. From 2015, he chose to donate his entire Scheme pension, through Payroll Giving, to a charity.
5. Payroll Giving is a tax-free way for individuals to donate to a UK registered charity, and the deduction is taken directly from the member's gross salary or pension. Donors can make donations in two ways. They can either (i) choose to make a one-off payment, or (ii) choose to set up a regular weekly/monthly payment. Donors must confirm their selected payment option at the outset using the Form, but they can vary or stop the payments by completing another form.
6. Each year, Mr D receives a notification from the Scheme, informing him of the total pension he has received for the year (**the Notification**). In 2018, he complained to NHS BSA, through the Scheme's internal dispute resolution procedure (**IDRP**), because he was unhappy that he did not receive the Notification before the end of the tax year. He also believed the information on the Notification was inadequate.

7. NHS BSA did not uphold Mr D's complaint at either stage of the IDR. In the IDR stage two decision, dated 10 October 2018, it explained how and when pension payments are made. It said:

"The payroll services provided by NHS Pensions meets the requirements of the NHS Pension Scheme in that it enables payment of retirement and associated family benefits to all NHS pensioners...Information about the benefits in payment, cost of living increases and deductions for tax or individual arrangements, is provided to pensioners at what I consider to be appropriate intervals.

The arrangements provided by Payroll Giving are based upon the deduction of fixed monetary amounts from pay, which applicants are asked to confirm at the outset on the application form Payroll Giving provides. This arrangement appears to meet the preferences of the vast majority of people who wish to make regular charitable donations and is compatible with our payroll systems.

Your preferred arrangement via Payroll Giving appears unique in that your wish is to donate the whole of your survivor's pension to charity. Your pension is not a fixed monetary amount but is subject to adjustment - for example, due annual cost of living increases.

The previous administrator endeavoured to accommodate your preferences in relation to Payroll Giving although, as you are aware, this arrangement has required manual intervention at necessary intervals.

I fully recognise your preferences in this respect although I trust you will understand that NHS Pensions must prioritise its resources toward the provision of the core payroll services I described, for all NHS pensioners.

NHS Pensions is continually reviewing its processes as part of an ongoing development of the services we provide and I can assure you that your comments will be taken into consideration as part of this process."

8. In his submissions, Mr D made the following points:-

- The underlying shortcoming is that a donor using Payroll Giving is not given the information required to keep track of their donation amount.
- The limitations applied to the issue of an 'Advice of Payment' to change of tax code, means that the donor is not informed of the revised monthly payment to the bank when the donation is first set up, nor when "rolled over" to the following year.
- Donation of the whole pension amount is allowed and should be supported. The late notification of pension entitlement prevents this from being achieved within the currently applied "fixed sum" interpretation.

- Ideally a document should be supplied at the end of the financial year showing the total deductions made for Payroll Giving similar to the way deductions are shown on a P60.
- The shortcoming identified becomes particularly relevant if any third party is called upon to handle financial affairs.

9. In addition, Mr D said:-

- The wording of the Gift Aid/Payroll Giving paragraphs on the Gov.UK website should be reviewed to allow clearer and more direct comparison of the two methods of donating to charity.
- HMRC should consider inclusion of Payroll Giving deductions on the P60. This would resolve some of the problems experienced. NHS BSA only issues this when tax is payable and appears to link the provision of the Pensioners' News Letter to issue of a P60.
- Following precedent should not be considered acceptable where the procedure is deficient in delivering the service to the pensioner.
- NHS BSA should provide an undertaking that an Advice of Payment will be made when there are any changes made to payments due, as a result of Payroll Giving deductions and that a whole donation will be handled seamlessly.

10. In response to Mr D's complaint, NHS BSA explained its understanding of this complaint, how Payroll Giving works and how pension payments are paid and increased to members. It also made the following comments:-

- HMRC tells NHS BSA how much tax to deduct from pension payments.
- Where a pensioner has paid tax on his NHS Pension in any tax year, NHS BSA will provide him with a P60 by mid-May the following tax year. The P60 includes information about the pension paid and the tax deducted during the relevant tax year.
- NHS BSA is not required to provide a P60 for a tax year if no tax was taken during the year.
- In 2015, Mr D opted to donate the whole of his pension from the Scheme to his nominated charity via Payroll Giving. The Form instructs donors to enter a new monetary amount if the regular payment is to be increased or decreased. In Mr D's case, he did not enter the monetary amount he wanted donated to his chosen charity; he stated he wanted the "FULL AMOUNT PENSION" on the Form.
- The previous administrator was able to comply with Mr D's request at the time. However, in its letter dated 7 July 2015, the previous administrator informed Mr D that "when his pension increased each year thereafter, he would need to the

increase [sic] his regular donation by the corresponding amount in order to maintain the donation of the full pension, as this would not happen automatically.”

- However, from subsequent correspondence, it appears that the previous administrator agreed to revisit Mr D’s payroll arrangement in April each year. This was to increase the donation amount, to reflect the latest cost of living increase to his pension, and to produce a manually prepared statement for Mr D, showing the total deductions he made in the previous year.
- Those arrangements were outside of the previous administrator’s normal processes and were reliant upon manual intervention by the previous administrator once a year.
- NHS BSA believes it has complied with the obligations placed upon it by the 2013 Disclosure Regulations.

Adjudicator’s Opinion

11. Mr 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 below:-

- Mr D made a number of points, (see paragraph 9 above), which are outside of my remit. So, the Adjudicator has made no comments on those points.

Complaint 1

- NHS BSA says that benefits in respect of the Scheme are subject to cost of living increases based on the Consumer Price Index (**CPI**), as set out in legislation. The increase is applied to Mr D’s pension at the beginning of April in the new tax year. So, NHS BSA is unable to inform Mr D of the value of his benefits, prior to the April publication date. However, an ‘Advice of Payment’ is issued, detailing the new rate and percentage increase in his April/May payments.
- NHS BSA was unable to supply a copy of the ‘Advice of Payment’ that members are sent. However, it detailed the information available on the ‘Advice of Payment’. This includes the new gross annual pension amount, tax code, details of the new monthly (net) amount payable based on a current tax code and other deductions in place, and the last three digits of the bank account payments are made to.
- The Adjudicator acknowledged that Mr D was dissatisfied with when and how he was notified of the increase to his pension. However, in her view, the way in which NHS BSA informed him of the changes did not amount to maladministration. NHS BSA could only notify Mr D of the change in the value of his pension, when it received the CPI rate from HM Treasury. NHS BSA explained that this change occurs in early April and that Mr D is then notified of the increase in his April and May payments. In the Adjudicator’s opinion, this was reasonable. Additionally, she

believed that the information on the 'Advice of Payment' was sufficient to enable most members, to understand the changes that had been applied to their pension.

- So, while the Adjudicator appreciated that Mr D would like NHS BSA to inform him of the increase at an earlier date or in a different format, it was her view that I would not uphold this element of his complaint. This is because, although the process could be different, there was no maladministration by NHS BSA in this regard. So, I would not direct NHS BSA to change the way it notifies members of increases applicable to their pensions.

Complaint 2

- The Adjudicator acknowledged Mr D's disappointment that the Form does not allow him to tick a box that says donate full pension. However, the absence of such a box on the Form does not prevent him from donating his entire pension from the Scheme to charity.
- Mr D's pension is subject to annual increases in line with CPI. So, he needs to contact NHS BSA once a year, after the increase has been applied to his pension, to request that the amount he donates to his chosen charity be increased. The Adjudicator appreciated Mr D's annoyance that he has to do this. However, she did not believe there was any underlying maladministration in NHS BSA's process.
- NHS BSA explained that the "arrangements provided by Payroll Giving are based upon the deduction of fixed monetary amounts from pay, which applicants are asked to confirm at the outset on the application form Payroll Giving provides. This arrangement appears to meet the preferences of the vast majority of people who wish to make regular charitable donations and is compatible with our payroll systems."
- NHS BSA must administer the Scheme in accordance with the applicable governing regulations. There is no sign that it is not doing so in this particular case.
- It was the Adjudicator's opinion that the complaint should not be upheld.

12. Mr D did not accept the Adjudicator's Opinion and in response made the following comments:-

- The matter of late notification of pension entitlement only started when there was a contract renewal with Equinity Paymaster "with this arrangement perpetuated by NHS BSA".
- The late notification impinges on his ability to provide a prompt update to Payroll Giving.

- Although he is not an accountant, his research indicates that the late notification is due to NHS BSA's procedures and not attributable to any delay in notification from HMRC.

13. As Mr D did not agree with the Adjudicator's Opinion, the complaint was passed to me to consider. Mr D's further comments do not change the outcome. I agree with the Adjudicator's Opinion and I will therefore only respond to the points made by Mr D for completeness.

Ombudsman's decision

14. Mr D being dissatisfied that he does not receive notification of his pension increase more quickly is not sufficient for me to uphold his complaint against NHS BSA. To do so Mr D would have to show that NHS BSA's maladministration has resulted in him incurring a financial loss or suffering non-financial injustice.
15. Having considered the information that both NHS BSA and Mr D have provided, I do not find that there has been any maladministration by NHS BSA in the way it notifies Mr D of his annual pension increases. So, while I appreciate and understand Mr D's frustration, I do not find that NHS BSA has done anything wrong.
16. I do not uphold Mr D's complaint.

Anthony Arter

Pensions Ombudsman
19 December 2019