



2nd July 2019.

The Pensions Ombudsman
Mr.A.Arter
10 South Colonnade,
Canary Wharf
London
E14 4PU.

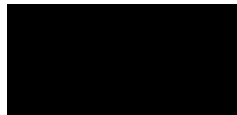
The Pensions Ombudsman – Service Delivery Complaints.

Dear Mr. Arter,

1. Your Mr. Burnett's email of the 26th June refers;
2. The failure of service delivery, leading to formal Service Delivery complaints, over the past many years, all of which are fully documented in the published media, and which have without exception involved the orchestrated deliberate delay in dealing with disabled Fire Service Veterans and their Pension Complaints have always been placed before your Director of Casework Ms. Fiona Nicol who has repeatedly claimed that *she* was the person responsible for Service Delivery complaints.
3. Repeatedly Ms.Nicol then allegedly 'investigated' these formal Service Delivery failures and complaints, in effect investigating herself, and as usual taking a deliberately inordinate amount of time to do so, then found in her own favour that all these innumerable complaints were groundless. Well she would, would she not?
4. Currently I have, in response to my 'service complaints', contained in my comprehensive letter of the 5th June 2019, which are numerous, lengthy, and serious Mr.Burnett's email in which he states *he...* 'is responsible for such complaints against our service'...
5. I can be forgiven for being confused allied with my surprise that Ms. Nicol has not taken direct responsibility for this situation which she herself created? Now she is either in charge or she is not?
6. Assuming what we know, that originally she claimed responsibility of all these service failures and then exonerated herself it appears you have sent Mr. Burnett, Ms Nicol's immediate subordinate to investigate his immediate superior Ms.Nicol, which is quite extraordinary and of course simply adds to the lack of credibility of TPO as an organisation.

7. One assumes that Ms. Nicol will cooperate fully with Mr. Burnett's investigation even in this extraordinary role reversal situation?

8. In any event to move progress I expect a report from Mr. Burnett of his preliminary headline findings by the 12th July 2019(TPO response time of 10 working days) which I shall call Stage I; and generously , allowing for his request for more time, at the completion of Stage II no later than a further 5 working days by 19th July 2019 I expect a fully detailed comprehensive analyses of his findings and his proposal of how he intends to deal with each point I have raised in my letter and which in addition Mr. Burnett will have raised through internal oversight investigation in his Stage I.



Yours Sincerely,

F. M. G. [REDACTED] MIFireE.
Asst Divisional Fire Officer(Rtd)

By email

██████████

Our Ref: CAS-33334-G2P7

12 June 2019

Dear Mr G ██████████

Your complaint about our service

I refer to your letter to Mr Arter dated 6 June 2019 in which you raised your dissatisfaction with our service and I also note your subsequent letter dated 2 July 2019.

Your letter of 6 June 2019 reiterates many points which relate to the merits of your original pension complaint. My role in this process is to consider how your case has been handled; I am not reviewing the Senior Adjudicator's findings in your pension complaint as our internal complaints procedure is not a mechanism for challenging the Senior Adjudicator's decisions.

Equally, it is for the Senior Adjudicator to decide what lines of enquiry they consider to be appropriate to their investigations and, in this case, they were able to reach their decision based on the evidence that had been collected during the investigation. I cannot revisit the decisions that have been made in the investigation of the various parts of your pension complaint.

Your letter also mentions previous service complaints relating to delays in other pension case in addition to your own. As you state, these matters have already been investigated as service complaints by the Casework Director and I do not intend to revisit those previous service complaints in this response.

Finally, your letter makes comment on the actions of people from other organisations. It is not appropriate for me to comment on the actions of employees from another organisation.

In your subsequent letter of 2 July 2019, you question my role regarding the investigation of service complaints. To clarify, my position is a new post which supports the Casework Director including the investigation of service complaints. Therefore, while the Casework Director would have rightly investigated the past service complaints you mention, the investigation of new service complaints can be carried out by either of us.

On the point of me investigating the Casework Director, as mentioned above I will not be revisiting the previously service complaints investigated by the Casework Director, rather focussing on the new issues with our service you have raised in your letter.

Your letter of 2 July 2019 also proposed a two-stage process for me to reply to your service complaint. Please be aware this is not our procedure for dealing with service complaints and, therefore, this will be my only and final response to your service complaint. Should you remain unsatisfied you will find details of how to take the matter further in my conclusions.

Therefore, based my comments above I have focussed my response solely on the service issues I have identified within your letter of 6 June 2019, which I believe to be:

- The status and qualification of TPO staff who have investigated your pension complaint.
- The quality and partiality of both the investigation and the Opinion issued by the Senior Adjudicator and whether they approached the case with “a fresh, open mind”.
- Failure of the Senior Adjudicator to share information relevant to the investigation of your pension complaint.
- Failure of the Senior Adjudicator to note your absence from the UK when setting the response deadline to the Senior Adjudicator’s Opinion and that this may have been “pure cynical opportunism in complicity”.
- Failure to respond to an unsolicited letter from a barrister relating to your pension complaint.

My findings

In your letter of 6 June 2019, you repeatedly question the qualification and status of the staff investigating you pension complaint, referring to them as being “not a lawyer but a civil servant”, “an unqualified layman civil servant” and “civil servants, not lawyers”.

May I clarify the situation. As you may know, we are a body set up by statute and our operations are largely governed by legislation (principally the Pension Schemes Act 1993, and various Statutory Instruments). We are a non-departmental public body, sponsored by the Department for Work and Pensions; our staff are therefore not civil servants.

Under the Act, the Ombudsman can delegate their responsibilities (other than final and binding decisions) to other people in the organisation. While there is no requirement for such Adjudicators to be legally qualified to receive delegated powers, all our Adjudicators received training and support to ensure the quality and consistency of their output.

In this case, the Senior Adjudicator produced an Opinion on your pension complaint acting under the authority delegated to them by the Ombudsman. Each party is advised that this

Opinion is solely that of the Senior Adjudicator and should either of the parties reject this Opinion, then the pension complaint will progress to an Ombudsman. The Ombudsman will carry out their own independent review of the pension complaint and issue a final and binding determination which may or may not agree with any previous Opinions issued by Adjudicators. Where the Ombudsman proposes to change an outcome previously indicated by the Adjudicator, they will usually issue a preliminary decision and invite further comment.

Therefore, all parties receive a fair hearing, sufficient opportunity to present their case and, ultimately, all cases have the option to be determined by an Ombudsman. It is only this determination, not any previous Adjudicator's Opinion, which is final and binding on the parties subject to the right to appeal on a point of law, which in the case of England and Wales would be to the High Court.

In your case, this process has been followed and, as you have disagreed with the Senior Adjudicator's Opinion, your pension complaint will now move to an Ombudsman for review.

I have reviewed the investigation that was carried out and both the covering letter and findings issued by the Senior Adjudicator in your pension complaint. As I have already stated, I cannot revisit the merits of the case itself, rather whether the findings were generated in accordance with our procedures.

I consider that the investigation into your pension complaint was conducted in line with our usual procedures and in line with what I would expect in the circumstances. Other than your own personal view, you have not provided any evidence to substantiate allegations of partiality. Equally, I cannot see any evidence myself which suggests a lack of impartiality in the conduct of the investigation.

Regarding the sharing of information, it is our policy that all information relevant to the investigation and supporting the findings of the Senior Adjudicator will be shared with the parties involved. In this case, I believe that the relevant information supporting the findings of the Senior Adjudicator have been shared with you and that you have had the opportunity to comment on those as part of your response to the Senior Adjudicator's Opinion.

I acknowledge that the Senior Adjudicator did not consider your previously notified absence from the UK when setting the deadline to respond to their Opinion. I believe this was a genuine oversight by the Senior Adjudicator and I can find no evidence that it was based on an ulterior motive. I also note that the Senior Adjudicator immediately rectified the situation as soon as it was brought to their attention.

Finally, you state that a response has not been issued to an unsolicited letter from a barrister related to your pension complaint. As you state in your own letter, the letter from the barrister was unsolicited and we would not respond directly to unsolicited correspondence discussing another person's pension complaint. The letter was included in your case's documentation and any response the points raised in it would be included in our correspondence with you.

Conclusion

In conclusion, I have responded to the elements of your letter dated 6 June 2019 that I believe relate to the procedural handling of your pension complaint.

I have not made comment on the merits of the pension complaint itself or revisited the findings of the Senior Adjudicator. Equally, I have not revisited the issues raised in previous service complaints already responded to by the Casework Director.

I have clarified the status of our Senior Adjudicators in that they are acting under powers delegated to them by the Ombudsman. The Opinion they generate is solely their own opinion and all cases have the option to progress to determination by an Ombudsman which is final and binding, subject to the right to appeal on a point of law

I have reviewed the investigation and I consider it was conducted in line with our usual procedures and in line with what I would expect in the circumstances; this includes the sharing of information relevant to support the Senior Adjudicator's Opinion.

I can see no evidence of partiality or collusion by the Senior Adjudicator in the investigation of your pension complaint. Equally, other than your own personal view, you have provided no evidence to substantiate such claims.

I acknowledge that your absence from the UK should have been considered by the Senior Adjudicator in setting the deadline for you to respond to his Opinion and I hope you will accept my unreserved apology for that. However, I do not believe there was any ulterior motive in this oversight and it was corrected immediately.

Finally, I have highlighted that we would include any relevant points made in unsolicited correspondence regarding your pension complaint in our correspondence with you, rather than reply directly to any unsolicited letter that we receive.

This is our final response to your complaint about our service. If you remain dissatisfied you may be able to raise your complaint with the Parliamentary and Health Service Ombudsman. The contact details are:

Website: www.ombudsman.org.uk/making-complaint/complain-us-getting-started

Helpline: 0345 015 4033

Yours sincerely

Andrew Burnett

Deputy Casework Director

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