

Ombudsman's Determination

Applicant	Mr N
Scheme	Principal Civil Service Pension Scheme (Northern Ireland) (the Scheme)
Respondent	Civil Service Pensions (CSP)

Outcome

1. I do not uphold Mr N's complaint and no further action is required by CSP.

Complaint summary

2. Mr N has complained that:-
 - CSP incorrectly told him that, if he married, he would still receive a refund of the contributions he made for the widow's pension benefit (**the WP**) when he took his pension; and
 - he has found the whole episode deeply distressing and it has been detrimental to his mental and physical well-being.

Background information, including submissions from the parties

3. On 15 October 2015, CSP wrote to Mr N about his benefits from the Scheme assuming his last day of service was 31 January 2016. The documentation said, under the Voluntary Exit Terms (**VET**) he would receive compensation of £54,486 in addition to his lump sum and pension. Mr N would also receive a refund of contributions in relation to the WP when he took his lump sum from the Scheme.
4. On 25 November 2015, Mr N emailed CSP explaining that he was leaving the Scheme on 31 January 2016. He asked if the WP contribution refund would be affected if he married between 1 February 2016 and his normal retirement date on 19 September 2018, and, if so, by how much.
5. CSP replied to Mr N on the same day and said that, if he married after leaving the Scheme, he would still receive the WP contribution refund, but CSP would take a small percentage off as his spouse would be due a pension in the event of his death.

6. Mr N married on 6 August 2016, and updated CSP about his marital status.
7. Mr N took his pension benefits in September 2018, but he did not receive the WP contribution refund which amounted to £10,473.75.
8. On 24 September 2018, Mr N wrote to CSP asking for the WP contribution refund.
9. On 5 October 2018, CSP confirmed the information given in the email of 25 November 2015, was incorrect and, as Mr N had married before he took his pension benefits, no WP contribution refund was due.
10. Mr N complained on being given incorrect information about the WP contribution refund. He said when he married and updated CSP it should have told him then that the information previously given was incorrect.
11. CSP provided a copy of the Scheme Regulations and responded to Mr N's complaint and said:-
 - The Scheme Regulations had been applied and no WP contribution refund was due.
 - It apologised for the misinformation.
 - If Mr N had not married until after he had received the WP contribution refund, on his death his wife would only receive the contingent widow's pension which would be a much lower than the widow's pension she would now receive.
 - When he advised CSP that he was married it would only have updated his records.
 - CPS was not in a position to offer him a payment equal to the full refund of WP contributions.
12. Mr N appealed the decision.
13. CSP apologised to Mr N and accepted that the first stage of the complaint should have been dealt with under the Internal Dispute Resolution Procedure (**IDRP**). However, as an initial reply to his complaint had already been given CSP were now replying under Stage Two of IDRP. CSP said:-
 - Although the Scheme rules had been applied correctly, the IDRP had looked at the overall administration of Mr N's case.
 - Its letter, of 15 October 2015, to Mr N confirming the WP contribution refund would be paid was factually correct as Mr N was single at the time.
 - The information in the email sent in November 2015, to Mr N in answer to his enquiry about getting married was incorrect.
 - It had to adhere to the "managing of Public Monies" guidance and ensure that public money and other resources were used properly and efficiently. However,

there was maladministration in the handling of Mr N's case. It offered £1,000 in recognition of the distress and inconvenience Mr N had experienced as a result of the provision of incorrect information.

14. Mr N has said that had he been given the correct information he would have considered when to take his pension, and how much paid work he should take when he left employment. He says he would have spent the last 15 months since his retirement relaxing rather than asking CSP to remedy the problem.

Adjudicator's Opinion

15. Mr N's complaint was considered by one of our Adjudicators who concluded that no further action was required by CSP. The Adjudicator's findings are summarised below:-
- Under the Scheme Regulations Mr N ceased to be entitled to the WP contribution refund when he married.
 - Mr N had not suffered a financial loss as the WP contributions he paid would provide his spouse with increased survivor benefits in the event of his death.
 - The Adjudicator considered that, even if had Mr N received the correct information, his pension would have come into payment in any event, so there was no causal link between the misstatement and Mr N taking his pension.
 - Mr N said he would have considered taking further paid work after leaving employment. The Adjudicator was not persuaded that Mr N would have reasonably decided to take up further employment as he referred to a "relaxing" retirement and had also received the VET of £54,486.
 - Mr N had suffered a loss of expectation as he was expecting to receive the refund of contributions and this would have caused him distress and inconvenience. However, the Adjudicator felt the offer from CSP in recognition of the distress and inconvenience was reasonable.
16. Mr N did not accept the Adjudicator's Opinion and the complaint was passed to me to consider. Mr N provided his further comments which do not change the outcome.
17. Mr N has argued that:-
- His complaint had not been fully addressed in the Opinion.
 - He chose to take his pension in 2018, so he used the VET payment to cover his income from 2016 and undertook short term work. So, he gained nothing financially by taking the VET, apart from reducing his work-related stress.
 - He also undertook short term work after he had taken his pension and when he found out he was not entitled to the WP contribution refund.

- He had lost out financially because he did not receive the WP contribution and he had therefore suffered a financial loss of £10,473.75.
18. The Adjudicator responded to the further comments. As Mr N had clarified he had taken on short term work, the decision was therefore not whether to take on work but the amount of work to take on. The Adjudicator did not agree this would have changed his decision to take his pension in 2018 as this extra pension income would have meant less short term work.
 19. Mr N said in response that he still considered that he should not be disadvantaged by CSP failures. He did not have an expectation that he would receive the WP contribution refund, as this was presented as a fact and was deeply distressed when he did not get it. Mr N argued that he may have chosen a different format for his pension and he was told the wrong information twice; this was not corrected for three years.
 20. I agree with the Adjudicator's Opinion and I will therefore only respond to the main points made by Mr N for completeness.

Ombudsman's decision

21. CSP has acknowledged that there was maladministration because of the incorrect information given to Mr N in response to his enquiry about the WP contribution refund in November 2015.
22. When Mr N married in 2016, CSP updated its records, but it was only in 2018, when Mr N took his pension, that he was told about the CSP error in November 2015 and that he was not entitled to the WP contribution refund.
23. Mr N has said that it was CSP who made the error, so he should still get the WP contribution refund. However, the basic principle for negligent misstatement is that a scheme is not bound to follow incorrect information. Mr N is only entitled to receive the benefits provided for under the Scheme Regulations.
24. As the Scheme Regulations have been correctly applied, for financial loss to be claimed as a result of a misstatement Mr N needs to show that there was direct reliance on the misstatement, that it was reasonable to do so and that it resulted in an irreversible loss.
25. I appreciate Mr N is unhappy that he was not entitled to the WP contribution refund. However, this does mean a higher spouse's pension will be paid to Mrs N in the event of his death. So, I do not consider Mr N has suffered a financial loss as the contributions he has paid can provide a benefit for his spouse at a later date.
26. Mr N has said that, had he been given the correct information about the WP contribution refund, he would have considered when to take his pension and whether to take on further paid work after leaving employment. He then later clarified that he had taken on short term work before and after he had taken his pension.

27. In order to argue a direct reliance on the misstatement Mr N would have to successfully show that there was a causal link between the receipt of the incorrect information about the WPS contribution refund and his decision to take his pension.
28. Mr N said he relied on the VET of £54,486 to cover his income when he stopped employment until he received his pension. I am not persuaded that Mr N's expectation of receiving the WP contribution refund would therefore have changed his decision to take his pension in 2018 or the format of that pension. His decision was the amount of work to take on and by taking his pension this would have resulted in less short term work not more.
29. CSP have acknowledged that there was maladministration because of the incorrect information given to Mr N in response to his enquiry in November 2015. I consider that Mr N has suffered a loss of expectation as he was expecting to receive the refund of contributions and this will have caused him serious distress and inconvenience. CSP has offered Mr N £1,000 in recognition of the distress and inconvenience he has suffered, which I consider is reasonable redress for the maladministration by CSP taking into account what has happened. Mr N should contact CSP if he wishes to accept its offer.
30. I do not uphold the complaint.

Anthony Arter

Pensions Ombudsman
11 May 2020