

Ombudsman's Determination

Applicant	Mr R
Scheme	Police Pension Scheme (Scotland) (the 2006 PPSS) Police Pension Scheme (Scotland) (the 2015 PPSS)
Respondents	Scottish Public Pensions Agency (SPPA)

Outcome

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

Complaint summary

2. Mr R complains that Strathclyde Pension Fund Office (**SPFO**) misquoted his estimated service credit and, as a consequence, he opted not to transfer his pension benefits from the Principal Civil Service Pension Scheme (**PCSPS**) into the 2006 PPSS. Mr R was later advised that his estimated service credit was higher than he was previously quoted but, by that stage, he was unable to transfer his pension benefits into the 2006 PPSS because it had closed.
3. SPPA says that SPFO wrote to Mr R with the correct transfer value at the time but cannot now allow Mr R to transfer his PCSPS benefits into the 2006 PPSS because it is now closed for transfers.

Background information, including submissions from the parties

4. In July 2006, Mr R became a member of the PCSPS.
5. In 2013 Mr R left the PCSPS and his pension benefits were preserved for payment at a later date.
6. In March 2011, a Government-commissioned report recommended replacing existing public service pensions schemes in Scotland with a new scheme. In the new scheme pension entitlement would be based on career average earnings rather than final salary.

7. After negotiations the changes recommended in the report were accepted and formalised in the Public Service Pensions Act 2013. The 2015 PPSS was due to be introduced for future service from 2015 onwards.
8. On 5 August 2013, Mr R joined the Police Service of Scotland and became a member of the 2006 PPSS, which was a public sector pension scheme.
9. On 28 November 2013, Mr R began to look into the possibility of transferring his pension benefits from the PCSPS into the 2006 PPSS. Mr R submitted a transfer request to SPFO along with a transfer value quotation that was provided to him by the PCSPS scheme administrator.
10. Around December 2013 or January 2014, Mr R had a meeting with a member of staff at SPFO. Mr R says that during this meeting, the member of staff “showed [him] a transfer value in years on a piece of paper that equated to 2.5 years of police pension for almost 10 years of prison service pension.” Mr R did not proceed with the transfer based on this information. SPFO has no record of the meeting taking place.
11. On 5 February 2014, SPFO wrote to Mr R to inform him that the transfer value from the PCSPS would purchase 7 years 53 days in the 2006 PPSS. SPFO asked Mr R to confirm if he wanted to proceed with the transfer.
12. On 25 February 2014, SPFO wrote to Mr R again because it had not received a response to its previous letter. SPFO asked Mr R to confirm if he wanted to proceed with the transfer and explained that if he did not respond within two weeks, the transfer value would “be cancelled” and his transfer request would be closed.
13. On 16 October 2014, the 2006 PPSS’ new administrator, SPPA, wrote to its members and explained that with effect from 1 April 2015, the 2015 PPSS would open. It also explained that it could only accept transfers into the 2006 PPSS up until 31 March 2015 due to “the reform of the public service pensions in 2015” and that a late transfer request after that date would only be considered “...if, for example, the administrator is at fault for delay in the provision of a quote.”
14. On 1 April 2015, Mr R transitioned into the 2015 PPSS. His pension benefits in the 2006 PPSS were preserved for payment at a later date.
15. On 15 June 2018, Mr R contacted SPPA and enquired about transferring his PCSPS pension benefits into the 2006 PPSS. SPPA asked Mr R to complete a transfer application so that it could explore the possibility of a “late transfer”.
16. On 28 June 2018, Mr R submitted a transfer request to SPPA.
17. On 12 July 2018, SPPA rejected the transfer because the 2006 PPSS had closed and any transfers would need to have been completed before 31 March 2015.
18. On 27 August 2018, Mr R contacted SPPA and requested that the estimated service credit that he was quoted by SPFO in December 2013 or January 2014, was checked for accuracy.

19. SPPA confirmed that SPFO wrote to Mr R, at his confirmed address, twice in February 2014. These letters provided details of the correct estimated service credit. Mr R disputed receiving the two letters so SPPA requested that he explain the grounds on which he was requesting a late transfer, in writing. Mr R sent his explanation on the same day.
20. On 4 September 2018, SPPA rejected Mr R's late transfer request. SPPA said that Mr R had to make the request within 12 months of joining the 2006 PPSS and as he joined the 2006 PPSS on 5 August 2013, he was not able to transfer additional service in. SPPA also said that it had no written quotation or record of the meeting with SPFO in December 2013 or January 2014.
21. On 10 December 2018, Mr R appealed the decision under SPPA's Internal Dispute Resolution Procedure (**IDRP**).
22. On 21 February 2019, SPPA issued its IDRP response and did not uphold Mr R's complaint. It said:-
 - Under section 18 of the Public Service Pensions Act 2013, it was unable to approve the transfer because Mr R requested the transfer into the 2006 PPSS after it closed on 31 March 2015.
 - It had no record of the meeting with SPFO or the service credit that Mr R was quoted in December 2013 or January 2014, but it had no reason to doubt Mr R's recollection.
 - It contacted SPFO as part of its investigation. SPFO confirmed that its process was to put transfer estimates in writing.
 - Its records showed that SPFO sent Mr R a service credit estimate on 5 February 2014, and a reminder on 25 February 2014. It concluded that SPFO sent the letters to the correct address, so it was reasonable for SPFO to assume that Mr R had received the correspondence but decided not to proceed with the transfer.
 - It apologised for asking Mr R to complete a late transfer request unnecessarily because it had not identified SPFO's correspondence on its records.
23. Mr R remained unhappy because he says he had based his decision not to proceed with the first transfer on incorrect information provided by SPFO and he did not receive the correspondence from SPFO with the correct service credit estimate.

Adjudicator's Opinion

24. Mr R's complaint was considered by one of our Adjudicators who concluded that no further action was required by SPPA. The Adjudicator's findings are summarised below:-

- The Adjudicator did not dispute Mr R's recollection of his meeting with SPFO in December 2013 or January 2014, however, there was no evidence to confirm what he was quoted during the meeting.
 - SPFO was able to provide copies of correctly addressed letters that it sent to Mr R in February 2014, with the correct transfer-in credit. On the balance of probability, it was fair to conclude that the letters were sent so it was regrettable that Mr R did not receive them. However, it was not unreasonable for SPFO to assume that Mr R had received the letters but had chosen not to transfer his benefits.
 - In 2018, SPPA unnecessarily asked Mr R to complete a late transfer request and, later, to provide grounds for the late transfer request despite having the February 2014 letters on its records to show that Mr R was provided with the correct transfer credit value. SPPA's oversight would have caused Mr R some inconvenience but he would still have been unable to transfer his benefits because the 2006 PPSS closed around three years before the second transfer request.
 - Mr R could not transfer his benefits from the PCSPS to the 2006 PPSS because the Scheme had now closed; SPPA must comply with the Regulations that govern the Scheme and; there were no valid grounds for a late transfer request.
25. Mr R did not accept the Adjudicator's Opinion and the complaint was passed to me to consider. Mr R provided his further comments which do not change the outcome. Mr R said that:-
- He was invited to attend a meeting with SPFO so there should be a record of it on his file.
 - He relied on the incorrect transfer value that SPFO provided him with in the meeting.
 - The address on the letters SPFO sent in February 2014 was correct but he did not receive any correspondence from SPFO.
 - He received the October 2014 letter but did not respond to it because he believed that the value quoted by SPFO in the meeting "...was not a good deal and therefore saw no reason at this point to start the process again."
26. I agree with the Adjudicator's Opinion and I will therefore only respond to the points made by Mr R for completeness.

Ombudsman's decision

27. Mr R maintains that there should be a record of the meeting with SPFO in December 2013 or January 2014. Neither SPFO nor SPPA dispute that this meeting took place and I do not doubt Mr R's recollection that the meeting took place. However, as none of the parties are able to provide a copy of a written quotation from the meeting or

any evidence as to what might have been said it is not possible to reach a conclusion that Mr R was misinformed during that meeting.

28. Mr R maintains that he did not receive the correct transfer value in February 2014 and, if he had, he would have queried the difference between the correct figure and the one quoted to him in the meeting with SPFO.
29. SPFO has produced copies of two letters that it sent to Mr R in February 2014. The first letter provided the correct transfer credit value and gave Mr R the option to transfer his benefits from the PCSPS to the 2006 PPSS. The second letter warned Mr R that he must respond or his transfer value would “be cancelled.” Mr R has confirmed that the address on the letters was his address at the time. I have no reason to doubt that the letters were sent to Mr R, however, SPPA cannot be held responsible that, for whatever reason, Mr R did not receive them.
30. Mr R has confirmed that he received the October 2014 letter, that was sent to the same address as the February 2014 letters, but he did not respond to it because he said he was not offered a “good deal” by SPFO in the meeting in December 2013 or January 2014. In my view, it would have been reasonable for Mr R to have contacted SPPA to ask for confirmation in writing of the information he says he was given at the meeting, particularly as this letter gave him a final opportunity to transfer his pension benefits into the 2006 PPSS.
31. I sympathise with the position Mr R finds himself in because he is now unable to transfer his PCSPS benefits into the 2006 PPSS. However, I do not agree that this is a result of maladministration by SPFO or SPPA.
32. I do not uphold Mr R’s complaint.

Anthony Arter

Pensions Ombudsman
15 May 2020