

Ombudsman's Determination

Applicant	Dr N
Scheme	Principal Civil Service Pension Scheme (the Scheme)
Respondents	The Cabinet Office MyCSP

Outcome

1. Dr N's complaint against the Cabinet Office and MyCSP is partly upheld. To put matters right, the Cabinet Office shall pay Dr N an additional £1,500, which increases the award to £2,000, in recognition of the severe distress and inconvenience it has caused him.

Complaint summary

2. Dr N has complained that his request to cease payments to his added years contract (**the Contract**) was not correctly actioned. He says that this resulted in the provision of incorrect pension figures by MyCSP which had an adverse impact on his retirement planning.

Background information, including submissions from the parties and timeline of events

3. The sequence of events is not in dispute, so I have only set out the salient points. I acknowledge there were other exchanges of information between all the parties.
4. On 20 May 1996, Dr N joined the Ministry of Defence (**MOD**) and the classic section of the Scheme. The Scheme was administered by an Authorised Pension Administrative Centre (**the APAC**) and was managed by the Cabinet Office.
5. On 30 July 2004, Dr N started paying contributions to the Contract to purchase additional service of six years in the Scheme.
6. On 15 August 2005, Dr N wrote to the APAC to request that it cancel the Contract as he no longer wished to pay additional contributions.
7. On 23 August 2005, the APAC wrote to Dr N to confirm that the Contract had been cancelled. It said:

“I can confirm that the option you made to buy 6 years 000 days that commenced from 30 July 2004 is now cancelled. The date of the last contribution is 31/07/2005 [...] The number of added years you will be credited with in respect of the cancelled option, inclusive of the last contribution is 0 years 122 days.”

8. In May 2012, MyCSP took over the administration of the Scheme.
9. On 8 August 2014, Dr N telephoned MyCSP. He asked for an actuarially reduced retirement (**ARR**) estimate.
10. On 27 August 2014, MyCSP provided Dr N with an ARR estimate. It notified him that he had purchased three years and 247 days of additional service.
11. On 31 March 2017, MyCSP provided Dr N with a benefit statement. It quoted four years and 204 days of additional service.
12. Later in 2017, Dr N sent an email to MyCSP. He asked several questions, including whether he could buy out the ARR reduction, and surrender all of his lump sum for additional pension (**Inverse Commutation**). He asked MyCSP to use a retirement date of 31 December 2017 or 31 March 2018.
13. On 19 August 2017, MyCSP responded to Dr N's email. It said that Dr N should refer to his most recent benefit statement, and visit the pension calculator on the Scheme's website, if he was considering claiming his benefits. If he then decided to retire, it would send him a retirement pack on receipt of a request from his employer.
14. Dr N sent a further email to MyCSP. He asked the same question: could he buy out the ARR reduction and apply the Inverse Commutation option at the same time?
15. MyCSP subsequently confirmed that what Dr N had suggested was possible.
16. On 1 September 2017, Dr N asked his employer to request an ARR estimate from MyCSP.
17. On 5 September 2017, Dr N's employer asked MyCSP to provide an ARR estimate, based on a retirement date of 31 March 2018. It asked that the estimate included the option to buy out the ARR reduction.
18. On 2 October 2017, MyCSP sent Dr N an ARR estimate based on a retirement date of 31 March 2018, as requested by his employer. It said that the buy-out cost could be found on the Scheme's website. It also confirmed that he had purchased four years and 325 days of additional service.
19. On 13 February 2018, Dr N's employer asked MyCSP to provide Dr N with an ARR estimate assuming his service would end on 31 May 2018.
20. On 25 March 2018, MyCSP sent Dr N a further ARR estimate. It confirmed that he had purchased four years and 346 days of additional service.

21. On 24 April 2018, MyCSP sent Dr N a retirement pack based on a retirement date of 31 May 2018. It said that he had purchased four years and 346 days of additional service. The cost of buying out the ARR reduction was quoted in the retirement pack.
22. On 27 April 2018, Dr N wrote to MyCSP. He confirmed that he wished to buy out the ARR reduction and utilise the Inverse Commutation option.
23. On 4 May 2018, Dr N emailed MyCSP. He asked how he should make the payment to buy out the ARR reduction.
24. On 9 May 2018, MyCSP confirmed that Dr N could make payment by cheque. It asked him to use its on-line actuarially reduced pension buy-out calculator to find out the cost.
25. On 12 May 2018, Dr N wrote to MyCSP's Director of Operations. He enclosed a copy of a letter dated 12 May 2018, which he had addressed to MyCSP's Pensions Administration Manager (**the Administration Manager**). He asked for his pension application to be expedited. In his letter to the Administration Manager, he requested information on how to complete the buy-out process.
26. On 16 May 2018, MyCSP confirmed that it was working on Dr N's buy-out figures.
27. On the same day, Dr N sent two emails to MyCSP. He maintained that, in a telephone call of 15 May 2018, he was informed that MyCSP would provide him with a response on 16 May 2018. He said he needed, among other things, information on how to complete the buy-out process.
28. On 21 May 2018, MyCSP responded to Dr N's outstanding questions. It confirmed how the buy-out payment should be made.
29. On 22 May 2018, Dr N sent a letter to MyCSP and enclosed a cheque for £74,558.18 to buy out the ARR reduction. He said that he expected his pension to be £19,791.52 per annum, allowing for the effect of the Inverse Commutation option and buying out the ARR reduction.
30. On 23 May 2018, Dr N sent an email to MyCSP. He said that he was concerned whether the cheque would be accepted, as he had been advised of two different payee details.
31. In May 2018, Dr N has said that he was considering whether to withdraw his resignation and continue working part-time until his benefits from the Scheme were in payment. He was aware that, to make this request, he needed approval from a Group Captain at the MOD (**the Group Captain**).
32. On 24 May 2018, Dr N emailed the Group Captain and asked him to approve the withdrawal of his resignation.
33. On the same day, the Group Captain provided his consent. He confirmed that a suitable position at the MOD would be available to Dr N until 31 August 2018.

34. On 25 May 2018, Dr N emailed the MOD. He asked that his exit date remain 31 May 2018, and that his application for his resignation to be withdrawn be rescinded. He said this was due to the Group Captain's response indicating that the offer of re-employment was limited to the end of August 2018.
35. On 31 May 2018, Dr N accepted the ARR that MyCSP had issued on 24 April 2018.
36. On 7 June 2018, MyCSP telephoned Dr N. It said that it was waiting on the Cabinet Office to clear his cheque before it could finalise his benefits.
37. On 20 June 2018, the Cabinet Office confirmed that Dr N's cheque had cleared.
38. On the same day, MyCSP telephoned Dr N to explain that it had discovered an error in relation to the Contract.
39. On 21 June 2018, MyCSP provided Dr N with two revised ARR quotations based on 122 days of additional service. In both quotations the annual pension was shown as £16,407.18, based on the Inverse Commutation option being applied and the ARR reduction being bought out.
40. The other figures on the quotations were the same apart from the cost of buying out the ARR reduction where the figures provided were £61,808.68 and £50,921.69.
41. On 24 June 2018, Dr N wrote to MyCSP. He highlighted that he had received two quotations showing different costs of buying out the ARR reduction. He asked for an Internal Dispute Resolution Procedure (**IDRP**) application form (**the Application Form**).
42. On 27 June 2018, MyCSP wrote to Dr N. It confirmed which of the two buy-out costs quoted to him was correct. A copy of the Application Form was included with its response.
43. On 4 July 2018, MyCSP emailed the Cabinet Office and asked it to refund the overpaid buy-out cost.
44. On the same day, Dr N completed the Application Form. In summary, he said:-
 - MyCSP's maladministration had resulted in a loss of expectation that had long lasting consequences for him and his family.
 - The estimate provided, just before his retirement, was consistent with earlier estimates. It formed the foundation of his decision to proceed with his retirement. MyCSP missed an opportunity to correct the figures. It missed a further opportunity when he formally requested retirement through his employer.
 - It was not until his employment had ended that he was advised of the error, which resulted in a reduction of £3,384.34 in his annual pension. MyCSP should have been able to detect that a significant error had been made in the calculations before he retired.

- He should be paid the benefits that were quoted to him on 24 April 2018.
 - After he submitted his application to draw his benefits, MyCSP made several errors, and delayed the retirement process, which had caused him significant distress and inconvenience.
 - The reduction in his pension from the Scheme meant that his household income was below the level that he and his wife had expected. Their in-depth retirement planning, and the decision they made to leave their jobs, were based on the information MyCSP had provided.
 - They would have accepted the option of remaining in work, and bought more pension benefits from the Scheme, had they known the correct figures.
 - He telephoned MyCSP concerning the Contract. He advised that he was no longer making payments through his pay and asked it to check the accrual rate. He was told that everything was in order.
45. On 10 July 2018, Dr N wrote to MyCSP; he received no apology or an acknowledgement that a refund of part of the buy-out cost was due to him. He said he would like an indication of its timescales for paying the refund.
46. On 17 July 2018, the MOD emailed Dr N. It said that it was following up his buy-out cost refund. It confirmed the conversation it had with him earlier that same day concerning the possibility of him withdrawing his resignation. It advised him that this was not an option.
47. On 19 July 2018, Dr N said that he had a telephone conversation with MyCSP. He was advised that it could not help him expedite the refund.
48. On the same day, Dr N emailed his union, Prospect. He asked whether it could assist him with having his employment with the MOD reinstated.
49. On 20 July 2018, Prospect confirmed that it would investigate whether reinstatement of Dr N's employment was possible.
50. On 27 July 2018, Dr N wrote to the Cabinet Office to obtain an update on the refund that was due to him.
51. On 9 August 2018, the Cabinet Office confirmed that the refund had been made on that same day. It apologised for the poor service and inconvenience caused.
52. On 6 September 2018, MyCSP provided its response under stage one of the IDR. It partially upheld Dr N's complaint. It said:-
- In August 2005, the APAC would have been responsible for amending his pension record to reflect the cancellation of the Contract.
 - The ARR estimate, dated 27 August 2014, quoted added years of three years and 247 days. The ARR estimate, that was issued on 2 October 2017, quoted four

years and 325 days. It was clear from the figures that Dr N was continuing to accrue added years. The APAC had not amended his record correctly. As a result, the records it had inherited were incorrect.

- Dr N had said that he had asked it to check his record during a telephone call. It could not locate a record of the call. So, it could not comment on this aspect of his complaint.
 - It upheld Dr N's complaint relating to the APAC's failure to update his record. However, it was reasonable to consider that he would have questioned the increase in his added years.
 - In relation to his complaint concerning the level of service he had received from MyCSP, it noted that, on 9 May 2018, it had asked for a screenshot of a calculation that it already held. It also noted that it had failed to respond to Dr N's outstanding questions until 21 May 2018, despite receiving further follow up emails and telephone calls from Dr N. It acknowledged that he had been provided with conflicting advice in respect of the payee when he was buying out the ARR reduction. It also upheld this part of his complaint.
 - It acknowledged that, at the time of receiving the corrected figures, Dr N's retirement date had passed. He was unable to make any amendments to his retirement planning, either through the purchase of additional benefits or by withdrawing his retirement.
 - It acknowledged that it had not provided Dr N with an acceptable level of service. It made several errors, and its communications were poor.
 - It accepted that it would have been Dr N's intent to purchase additional pension benefits had he been aware of the error prior to his retirement. However, it said that this did not result in an entitlement to the higher benefits as he had requested. This part of his complaint was not upheld.
 - It offered Dr N £500 for the distress and inconvenience he had suffered.
53. On 15 September 2018, the MOD emailed Dr N. It said that it had been asked by Prospect to contact him to discuss the options available to him in connection with the reinstatement of his employment.
54. On 17 October 2018, the MOD informed Dr N that it had received details of the reinstatement options available to him in relation to the Scheme. It said that MyCSP had confirmed these as being:
- “When look at if Partial Retirement would be an option, we would need Scheme Manager Approval if it was to be backdated. [Dr N] would also need to take into account his working pattern, and especially abatement. However this would mean that more than likely the member would not have to repay

anything (unless he is subject to abatement and sticks to 100% of his pension being paid).

The easiest way administratively would be to cancel his award altogether, as this would not need Senior Manager approval. However the member would need to repay everything that he has been paid from the scheme, i.e. all pension payment and pension lump sums.”

55. On 18 October 2018, Dr N accepted the offer of a £500 ex-gratia payment from MyCSP. The payment was subsequently made to him on 23 October 2018.
56. On 20 November 2018, the MOD wrote to Dr N. It offered him reinstatement of his employment from 27 November 2018.
57. On 27 November 2018, Dr N returned to work at the MOD on a part-time basis.
58. On 2 January 2019, Dr N wrote to the MOD. He said that MyCSP had confirmed that he would return to the classic section of the Scheme under the partial retirement option.
59. On 14 January 2019, Dr N complained to the Cabinet Office under stage two of the IDR. In summary, he said:-
 - He and his wife had decided to consider retirement for two reasons: concerns over their family health history and the fact that he was under investigation for a heart condition. There were several activities they wished to undertake in retirement; they needed to be fit and spend significant time away from their home.
 - They had planned their retirement in detail, over a two-year period, with the help of an independent financial adviser.
 - Due to maladministration by MyCSP, he had suffered a loss of £3,384.34 per annum in expected pension. This had led to long term hardship and had negated the planning that they had undertaken. They were not given the opportunity to recover from its errors in a timely manner.
 - Furthermore, the maladministration had resulted in him having to make some irreversible decisions with other pension providers and his wife’s NHS career and pension had been adversely impacted.
 - The stage one IDR decision did not recognise the serious consequences of the errors made by MyCSP. The ex-gratia payment was insignificant in view of the extent of the maladministration and the potential implications.
 - In addition, the stage one IDR response did not recognise the opportunities missed by MyCSP to rectify the errors at an earlier stage. It had attempted to deflect blame on the previous administrators and apportion some blame to him. It had failed to mention his numerous communications with MyCSP and did not

maintain accurate records: it was unable to find any record of the telephone conversation during which he queried the added years accrual.

- MyCSP's document "What to expect when you claim your Civil Service pension" indicated that it would check the information supplied by his employer. It also indicated that making sure all the information was correct and preparing the pension option could take two months. He had every reason to expect that the ARR estimate dated 25 March 2018 was checked and correct.
- It was unreasonable to expect the liability for MyCSP's negligence to rest with him, particularly given the fact that it was too late for him to mitigate his financial position.
- MyCSP's customer service, timeliness of response, and communications fell short of his expectations. He had to contact the Financial Director of the Cabinet Office to get his refund of the overpaid buy-out cost.

60. Dr N also provided his feedback on the events that had taken place after the error came to light. In summary, he said:-

- He and his wife had pursued the option of re-employment with their previous employers. His wife secured several short-term contracts with the NHS but they ended in March 2019. He asked that his resignation from the MOD be withdrawn. This was initially declined. He also applied for work elsewhere.
- The reinstatement of his employment was a long process which did not conclude until 27 November 2018.
- MyCSP was asked for details of his benefit options following the MOD's offer to reinstate his employment. It was slow to respond. One of the options that was presented to him would have required him to pay back the pension he had received. This took no account of the fact that he would have been without income for approximately six months. So, he had no choice but to return to the MOD's employment on a parttime basis.
- He was put in the wrong section of the pension scheme following his reinstatement.

61. On 12 March 2019, the Cabinet Office wrote to Dr N and apologised for the delay in providing a response under stage two of the IDRPs.

62. On 24 April 2019, Dr N emailed the Cabinet Office. He maintained that, on being reinstated in the Scheme, he had been allocated to the alpha section rather than the classic section. He confirmed that he had written to the MOD's pension department; his pay advice then showed that he was in the classic section. He had received no feedback from the Cabinet Office on this issue. He also said that his April 2019 pay advice showed that he was in the Nuvos section; he had queried this with the MOD's pension department.

63. On 23 May 2019, Dr N sent a further email to the Cabinet Office. He maintained that he had not received a response to his email of 24 April 2019. He said that the IDRPs stage two response was due on 24 May 2019.

64. On 19 June 2019, the Cabinet Office provided its response under stage two of the IDRPs. It did not uphold Dr N's complaint. In summary, it said:-

- The retirement process did not go "smoothly" in his case. However, it could not pay benefits above what was provided for in the regulations that governed the Scheme (**the Regulations**).
- Dr N had not suffered a loss, as he could not lose something to which he was not entitled.
- The underlying principle of redress was to put someone in the position they should have been but for the mistake.
- It was difficult to conclude that Dr N was not in a position to know that the figures he had been quoted were wrong. He had not reasonably relied on the misstatement.

65. On 14 August 2019, MyCSP wrote to Dr N concerning his partial retirement. It said that, due to there being no changes in his service or pensionable pay, the quote sent to him on 21 June 2018 still applied and would be used as his partial retirement quote. He was provided with a Proportion of Benefits form which gave him the opportunity to take a lower pension than the full pension that was available to him. He was also given the opportunity to select a different lump sum.

66. On 16 August 2019, Dr N wrote to MyCSP. He said that the only remaining issue that needed to be addressed was what section of the Scheme he was in. He confirmed that he had previously decided to take his full pension.

67. The Cabinet Office subsequently confirmed that, due to the length of the break in Dr N's service, he had automatically been placed in the Nuvos section of the Scheme when he re-joined. However, he had now been entered in the Classic section of the Scheme.

68. On 28 January 2021, Dr N fully retired from the Scheme.

69. **Summary of Dr N's position**

70. Dr N said in summary:-

- Had his request to have his employment reinstated not been refused in the first instance, he would have paid back the pension he had received. He was not given the option of reinstatement until several months later. At which point, paying back his pension would have left him with no income during the intervening period.

- All the options that were eventually presented to him would have resulted in further financial loss. So, he elected to continue drawing his pension and return to work on a part time basis; he considered this to be the only viable option.
- He was aware that he could not be paid pension to which he was not entitled.
- He will suffer a financial loss over his lifetime, which he estimated to be £125,000.
- The Cabinet Office's stage two IDRPs response had focused on the fact that he should have known that a mistake had been made. He did query the position with MyCSP at the time.
- MyCSP should have proactively managed the refund of the overpaid buy-out cost; the overpayment arose because of an error of the part of MyCSP.
- The £500 payment made by MyCSP did not reflect the consequences of its errors.

The Pensions Ombudsman's position on the provision of incorrect information

71. The basic principle for negligent misstatement (in the absence of any additional legal claim) is that a scheme is not bound to follow incorrect information, such as retirement quotes, transfer values or early retirement. A member is only entitled to receive the benefits provided for under the scheme rules, meaning those based on correct information accurately reflecting the scheme rules.
72. Broadly, the Ombudsman will provide redress if it can be shown that financial loss or non-financial injustice has flowed from incorrect information given. For example, the member may have taken a decision in the expectation of receiving the higher benefits which they would not otherwise have done, such as retiring early. The Ombudsman will also consider whether it is more likely than not that a member relied on the incorrect information to their detriment and that it was reasonable for them to do so. An example of this is where the member had already decided to take early retirement before receiving the incorrect information. In this case it is unlikely that any claim for financial loss would be upheld on that basis alone.
73. The above sets out the Ombudsman's views very generally on the application of negligent misstatement. It is for guidance only; each case will be decided on its own facts.

Adjudicator's Opinion

74. Dr N's complaint was considered by one of our Adjudicators who concluded that further action was required by the Cabinet Office as a result of the serious level of distress and inconvenience suffered by Dr N. The Adjudicator's findings are summarised below:-

- MyCSP had agreed that it sent incorrect information to Dr N in several ARR estimates and also in a benefit statement. The most critical of these were the ARR estimates that it issued on 25 March 2018 and 24 April 2018, close to Dr N's retirement date. So, there was no dispute that Dr N had been disadvantaged as a result of the error made.
- The provision of incorrect information amounted to maladministration. As maladministration had occurred, the normal course of action would have been, as far as possible, to put Dr N back into the position he would have been in had the error not occurred. This did not, however, mean paying Dr N a level of benefit to which he was not entitled. Dr N needed to show that he relied on the incorrect information to his detriment and that it was reasonable for him to do so.
- In August 2005, Dr N notified the previous administrators that he wished to cease payments to the Contract. At that point in time, the number of added years that he had purchased was frozen at 122 days. Dr N was notified of this in the APAC's letter of 23 August 2005.
- The subsequent incorrect record was caused by Dr N's request not being processed correctly, and his added years continued to increase despite the fact that he was paying no further contributions. Between August 2014 and April 2018, Dr N received at least five separate communications from MyCSP which quoted the added years purchased and showed that this figure was increasing. So, in the Adjudicator's opinion, it was not unreasonable to conclude that Dr N should have been aware that something was amiss.
- Dr N maintained that he telephoned MyCSP concerning the Contract, and informed MyCSP that he was no longer paying contributions. He also maintained that he had asked MyCSP to check the accrual; MyCSP confirmed at the time that everything was in order. The Adjudicator noted that it was unable to find a record of this telephone conversation.
- Without a record of this telephone conversation, the Adjudicator could not say that, on the balance of probabilities, it took place. If it did take place, the Adjudicator was unable to comment on the context in which MyCSP confirmed that there were no issues. The Adjudicator noted that Dr N said that he had concerns at the time and that he said that he did raise these. However, the Adjudicator took the view that it was not reasonable for Dr N to have relied on the information, in the ARR estimates provided by MyCSP, as the basis for his initial decision to retire.
- Dr N maintained that, had he been provided with the correct figures before his retirement, he would have deferred his decision to retire on 31 May 2018 and continued working.
- However, the Adjudicator noted that the option of cancelling his retirement, and returning to fulltime employment, was available to Dr N, but he chose not to

accept it. The option he selected was to accept partial retirement and parttime employment with his retirement benefits paid at the full rate.

- The option of Dr N returning to work was initially declined by the MOD. It was not until 27 November 2018, that he returned to the MOD's employment. The Adjudicator appreciated that Dr N had to consider the financial impact of the six-month gap in his employment. As a result of these considerations, the Adjudicator noted that other options were more attractive to Dr N than cancelling his retirement and returning to fulltime employment.
- However, in the Adjudicator's opinion, the decision that Dr N had made to retire was not irreversible. He was of the opinion that MyCSP was correct in granting Dr N the benefits that he was entitled to under the Regulations.

75. The Adjudicator went on to consider any non-financial injustice that Dr N may have suffered. His findings are summarised below:-

- This situation had caused Dr N distress and inconvenience. The Adjudicator said this because Dr N had requested ARR estimates to assist him with his retirement planning. So, this was an important time for him. On five separate occasions, over a period of four years, MyCSP sent Dr N incorrect information concerning his benefits. The error in the calculation of his benefits was not corrected until after his retirement. At this point he decided, for financial reasons, to return to work on a parttime basis.
- Furthermore, MyCSP had acknowledged that it was slow to respond to several of the questions Dr N raised with it. It had also acknowledged that it provided conflicting information in relation to the payee for the cheque. When it wrote to Dr N with his correct ARR figures, it quoted two different costs for buying out the ARR. A further issue occurred when Dr N was reinstated in the Scheme but was not put in the section of the Scheme that had previously been agreed with him.
- The Adjudicator noted that MyCSP had apologised for these errors and had paid Dr N an ex-gratia payment of £500. In the Adjudicator's view, and in accordance with my guidelines on non-financial injustice, Dr N had suffered a serious level of distress and inconvenience. So, a total award of £1,000 should be made to Dr N to recognise this.

76. Dr N did not accept the Adjudicator's Opinion and the complaint was passed to me to consider.

77. Dr N provided further comments, which are in summary:-

- His understanding was that the main principles concerning complaints were to put the applicant back in the position they would have been had the error not occurred and for redress to be provided if it could be shown that financial loss or non-financial injustice had flowed from the incorrect information that had been provided.

- It seemed that these principles had not been fully taken into account when considering the available evidence. The £1,000 payment did not reflect the level of distress and inconvenience he had suffered which he considers to be severe. Furthermore, this payment would not put him back in the position he would have been had the error not occurred.
- In considering this, the Opinion did not take into account consequential losses flowing from the original mistake. These included the salary and reckonable service he had lost. The available evidence supports a different decision from the Adjudicator's.
- The Opinion dismissed some key events, circumstances and evidence without an underpinning argument and relied solely on the view that he relied on an incorrect estimate. The Opinion seemed to imply that he should not have relied on any of the information he received from MyCSP.
- He had initially suspected that something was wrong. He made enquiries and received reassurances that the figures were correct. However, he accepts that supporting evidence of this is not available.
- Given the volume of communication he had with MyCSP, he had growing confidence that the quotation he had accepted had been checked for errors. He was not aware of any other information he could have used to make his retirement decision.
- There was evidence that, when the magnitude of the error became apparent, he would have cancelled his retirement and returned to work given the opportunity. There was an opportunity for him to withdraw his resignation at any point up to his employment exit date. Evidence shows that he requested his resignation be withdrawn. However, he was advised by the Cabinet Office in May 2018 that this would only exacerbate matters.
- The Adjudicator's Opinion suggested that he did not try and actively mitigate the mistakes of others. Evidence shows this was not the case.
- He made a number of suggestions for changes to the wording of the Opinion. These included adjustments to the complaint summary which he considered not to be complete. He also considered that the tone of the background section favoured the respondents.
- What is the difference between an estimate and a quote in the context of this case? Also, what are the implications of a pension quote that had been signed and accepted in terms of normal contract law?

78. Dr N went on to provide further information on the reasons behind the decisions he had made which he felt were not fully reflected in the Opinion. He said:-

- It would not have been financially viable for him to return to work full-time and keep his retirement benefits. This was due to abatement and the fact that the benefits of him having bought out the ARR reduction would have been negated. So, he had little choice but to initially return to work on a parttime basis to avoid adding to his consequential losses.
- After his reinstatement, some further options were informally presented to him by the Cabinet Office. He later had the opportunity to reverse his retirement decision but not without financial impact. He would have had to return all his pension benefits leaving him without income between his accepted retirement date and being reinstated.
- The Cabinet Office had the opportunity to put him back in the position he would have been had the mistakes not occurred. It could have done this by considering his enforced absence from work as special paid leave rather than special unpaid leave. This would have compensated him for his immediate financial losses from reversing his retirement decision and allowed him to accrue reckonable service during this time. As this did not occur, it was not unreasonable for him to conclude at the time that continuing with part-time work gave him the best balance between recovering his financial position and incurring a further loss.

79. I note the additional points raised by Dr N and accept that he has suffered severe distress and inconvenience as a result of the maladministration. However, I agree with the other aspects of the Adjudicator's Opinion.

Ombudsman's decision

80. Dr N's complaint concerns an error made at the time he requested to cease payments to the Contract as the records were not amended to show that payments had ceased. This resulted in him being sent incorrect ARR figures, which he says had an adverse impact on his retirement planning and has caused him financial loss.
81. Dr N has said that he understands that the principle concerning complaints of this type is to put the applicant back in the position they would have been had the error not occurred. Thus, redress to be provided if it could be shown that financial loss or non-financial injustice had flowed from the incorrect information that had been given.
82. While these principles are correct, one key aspect that is also necessary, and that I need to take into account, is whether it was reasonable for the applicant to have relied on the incorrect information to their detriment.
83. I note that the APAC wrote to Dr N on 23 August 2005 to confirm that the Contract had been cancelled. It notified him that 122 days of additional service had been purchased.
84. In contrast, on 27 August 2014, MyCSP provided Dr N with an ARR estimate in which it said that three years and 247 days of additional service had been purchased. A

benefit statement sent to Dr N on 31 March 2017, quoted four years and 204 days and an ARR estimate provided on 2 October 2017, quoted four years and 325 days. Later quotations provided on 25 March and 24 April 2018, said that four years and 346 days of additional service had been purchased.

85. It can be seen from the communications provided by MyCSP that the added years purchased by the Contract were increasing with time. I find that this was an indication that something had gone wrong and Dr N's request to cease contributions in respect of the Contract had not been processed correctly.
86. Dr N has said that he had similar concerns and that he telephoned MyCSP to discuss these. He said that he was told that everything was in order. Unfortunately, Dr N has been unable to provide any evidence that this telephone call took place and MyCSP has confirmed that it has no record of the call.
87. Without any evidence that the telephone conversation took place and, if it did, exactly what was discussed, it is not possible for me to make a finding of fact on this point. So, while I acknowledge that Dr N has highlighted losses flowing from the error, I find that neither MyCSP nor the Cabinet Office can be held responsible for these losses. In any event, even if Dr N was told it was correct, he was aware that he was not paying additional contributions for added years and that he had made the decision to cease the Contract in 2005, so it would not have been reasonable for him to have accepted this as correct, and to have then relied upon it.
88. In relation to any non-financial injustice that Dr N has suffered, I have considered the multiple instances of him being provided with incorrect information by MyCSP and the fact that a correction was not made until after his retirement. MyCSP has also acknowledged that it provided conflicting information in relation to the payee and amount for the cheque he needed to send it to buy out the ARR. It also provided slow responses to some of the questions raised by Dr N and there was confusion over which section of the Scheme he was due to be placed in when he re-joined.
89. I agree with Dr N, that given the number of errors made the distress and inconvenience caused is severe, so a total distress and inconvenience payment of £2,000 is more appropriate in this case.
90. I have noted the suggestions that Dr N has made for the re-wording of paragraphs in the Adjudicator's Opinion. I have not commented on these as I do not consider that they affect the outcome of this case.
91. Dr N has asked about the usage of the words; "estimate" and "quote" in this document. For the purposes of this document, the usage of "estimate" and "quote" is interchangeable. No difference is meant to be implied by the usage of one of these words as opposed to the other.
92. Dr N has also asked about the implications of a pension quote that has been signed and accepted in terms of normal contract law. The necessary elements of a contract are: offer, acceptance, consideration and an intention to enter into legal relations. I do

not consider that there was any intention on the part of MyCSP to enter into a legal relationship with Dr N beyond his entitlement. So, I find that a contract was not formed.

93. I note that Dr N has said that the Adjudicator suggested that he did not try to actively mitigate his situation and that his reasons for making the decision that he did were not fully reflected.
94. I acknowledge the steps taken by Dr N and his thinking behind those steps. However, in summary, I do not agree that MyCSP or the Cabinet Office can be considered liable for any losses incurred by Dr N as a result of the steps he was required to take. This is because I do not find, given the evidence to hand that it was reasonable for Dr N to have relied on the incorrect information that he was provided with by MyCSP.
95. I partly uphold Dr N's complaint.

Directions

96. Within 28 days of the date of this Determination, the Cabinet Office shall pay Dr N an additional £1,500, increasing the total award to £2,000 in recognition of the severe distress and inconvenience he has suffered.

Anthony Arter

Pensions Ombudsman
10 May 2022