

## Ombudsman's Determination

Applicant	Mrs R
Scheme	Civil Service Compensation Scheme ( <b>CSCS</b> )
Respondents	The Cabinet Office MyCSP

## Outcome

1. I do not uphold Mrs R's complaint and no further action is required by the Cabinet Office and MyCSP.

## Complaint summary

2. Mrs R has complained that the Cabinet Office and MyCSP did not:-
  - Take into account the service she transferred into the Principal Civil Service Pension Scheme (**PCSPS**), from the Local Government Pension Scheme (**LGPS**) and the NHS Pension Scheme, on Public Sector Transfer Club (**the Club**) terms, when calculating the compensation payable to her from the CSCS.
  - Provide her with sufficient clear information about the PCSPS and CSCS in order to decide whether transferring service from her previous pension schemes into the PCSPS would be in her best financial interests.

## Background information, including submissions from the parties

3. Mrs R commenced working for the Department for Work and Pensions (**DWP**) in July 2007 and joined the premium section of the PCSPS. She could not join the classic section of the PCSPS because she did not satisfy the necessary criteria specified in the PCSPS rules.
4. Mrs R subsequently decided to transfer her reckonable service in the LGPS and NHS Pension Scheme, totalling 12 years and 100 days, into the PCSPS by means of the Club.
5. Note A of the letter dated 28 June 2008 which DWP sent Mrs R concerning the transfer of her pension rights to PCSPS stated that:

“Qualifying and reckonable service credited to members who are employed or re-employed in the Civil Service (or in a body covered by Civil Service pension arrangements) is not taken into account for the purposes of calculating compensation under the CSCS.”

6. On 1 April 2015, Mrs R was transferred to the alpha pension scheme and became a deferred member of the PCSPS.
7. Following a major reorganisation at the DWP, a new “Corporate Centre Strategy” was introduced which, Mrs R says, left her with no choice but to accept voluntary redundancy (**VR**).
8. In her e-mail dated 26 September 2017 to MyCSP, Mrs R sought clarification on the reckonable service which would be used to calculate the compensation available to her from the CSCS on VR terms under an exit scheme run by DWP.
9. She quoted the following extract from the CSCS guidance in her e-mail:

**“First day of continuous service...**This could be with a previous employer as long as there was no more than a break of 1 working day before 30 July 2007 and no more than 28 days’ break from 30 July 2007 between the two periods of service.

**Current Reckonable Service** is the service your compensation payment will be based on. As explained in the calculator, it does not include transferred in service, added years, added pension or any earlier periods of service, unless there is no break as explained above, even if you have already aggregated or linked earlier service with your current service.”

10. Mrs R said that she was told the service which she transferred into the PCSPS would count in the compensation calculation but wanted to check this with My CSP.
11. MyCSP replied on 28 September 2017 as follows:-
  - The information about the CSCS which she quoted was correct.
  - The total reckonable service which would be used to calculate the pension available to her from the PCSPS was 19 years 354 days.
12. In September 2017 MyCSP sent DWP a VR quotation showing the estimated compensation and pension benefits available to Mrs R from the CSCS, PCSPS and the alpha pension scheme, calculated using a leaving date of 28 February 2018 and total reckonable service of 22 years 323 days comprising of:
  - 12 years 100 days of transferred in service;
  - 7 years 254 days of service in the PCSPS; and
  - 2 years 334 days of service in the alpha pension scheme.

13. The CSCS compensation amount of £41,726.87 shown on the VR quotation was based on her service accrued directly in the PCSPS and alpha pension scheme totalling 10 years 223 days.
14. In November 2017, DWP notified Mrs R that it could not send the VR quotation to her yet because:-
  - the total cost of her VR was in the region of, or exceeding, £95,000; and
  - it needed approval from the Cabinet Office before it could do so.
15. DWP informed Mrs R on 13 November 2017 that it had received the necessary approval and apologised for the delay in sending the VR quotation to her.
16. Mrs R asked MyCSP why her transferred in service had not been taken into account in the calculation of the CSCS compensation amount.
17. MyCSP replied on 23 November 2017 that only service relating to her current employment with DWP was used in its calculations because she was not taking VR from her previous employments. It also said that if Mrs R wanted her transferred in service to be included in the calculation, she would need to ask her employer to obtain consent from the Cabinet Office.
18. In December 2017, DWP explained to Mrs R that the reference to a previous employer in the extract from the CSCS guidance only applied if:
  - the previous employer was a “Civil Service Employer” and the break in employment was less than 28 days; or
  - the Minister had given approval for previous employment from a transfer under the Transfer of Undertakings (Protection of Employment) (**TUPE**) Regulations 2006 to count for CSCS compensation purposes.

Neither criteria applied to Mrs R.

19. Mrs R was dissatisfied with this response and in January 2018 DWP suggested that the best option for her would be to make a complaint under the Internal Dispute Resolution Procedure (**IDRP**).
20. On 5 February 2018, MyCSP informed Mrs R that she was entitled to a revised payment of £45,899.56 from the CSCS based on a leaving date of 28 February 2018.
21. Mrs R raised a complaint under IDRP which was not upheld at stages one and two in April 2018 and June 2019 respectively.
22. In its Stage One IDRP decision letter, MyCSP said that:

“The compensation payable to you was calculated as per Section 12 (2010 Compensation Scheme) of the CSCS rules.

Rule 12.2.1 (1) defines to whom the 2010 terms of the CSCS apply...

...civil service is not defined by the PCSPS or CSCS rules, but rather by the Government. A person who works for a public body is not necessarily in civil service employment. Civil servants are those who are employed by “the Crown”...

There are a wide variety of other public bodies which do not generally employ civil servants...

These include:

- The National Health Service
- Local Authorities

...your last employment before joining service covered by the PCSPS was for the Greater Manchester Probation Service (**GMPS**) and was covered by the LGPS.

...as service for the GMPS is not civil service, rule 12.2.1 (1)...does not apply to this period of your employment automatically.

Rule 12.1.3 describes the service to which the CSCS applies. It explains that the scheme applies to the current period of continuous service...Therefore a member who has moved between civil service employers, with a break of not less than 28 days between the two periods of employment, can under certain circumstances as provided for under the rules have their earlier service included in their compensation calculation.

An employer can submit a request to the Cabinet Office for service covered by another scheme to be included for the purposes of calculating benefits under the CSCS.

It is at an employer’s discretion to do so as they bear the full cost of CSCS benefits. Accordingly, such a request must be accompanied by a robust business case setting out the reasons for the previous service to be included.

Discretion is provided for under rule 12.1.4 (3) and the final decision rests with the Cabinet Office on behalf of the Minister...

Rule 12.1.3 (4) goes on to exclude service transferred in from another pension scheme to the PCSPS...

You have queried the “special terms” applicable to your transfer in from the LGPS to the PCSPS under the Club arrangements...

Club transfers are calculated in accordance with the Club Memorandum, the current version of which can be found on the Civil Service Pension Scheme website...

The Club provides for the movement of persons within the Public Sector. It allows for employees to receive a broadly equivalent pension scheme credit when they transfer pensionable service from their old scheme to their new scheme...

Transfers calculated on a Club basis will normally offer a higher service credit than those calculated on non-Club terms...

This means that it is usually more beneficial for a member to transfer in under the Club arrangements...

The Memorandum does not provide for service transferred in on Club terms to be included in the service used to calculate a member's compensation. Your start date cannot be "backdated" to the start date of your transferred in service. This scenario is not provided for under either the premium section of the scheme rules or the Memorandum.

The administrators of the scheme at the time you transferred in could not have foreseen that you would later leave the scheme with compensation payable under the CSCS. It is also important to note that the various rules and legislation that apply to the Civil Service Pension Scheme arrangements are subject to change.

It is not possible to cover every scenario in the transfer quote information provided to members, and accordingly the onus is on the member to seek financial advice about the impact transferring may have on their future benefits at the time of transfer...

In respect of the guidance provide to you by My CSP, I have been unable to find evidence that My CSP advised you that your transferred in service would be included in the calculation of your compensation...

Neither your employer nor My CSP have authority to act other than in line with the scheme rules and other statutory legislation..."

23. In its Stage Two IDRPs decision letter, the Cabinet Office said that:-

- The statutory nature of the CSCS rules meant that they could not be varied or not applied unless the rules contained a discretion to do so, but this did not extend to Mrs R's position.
- Information about transferred in service from Club transfers not being allowed for in the CSCS compensation calculation could have been found by Mrs R on the Civil Service Pension Scheme website available to her when she joined the DWP.
- Scheme publications did not cover every eventuality for members. Individuals were directed to the rules of the scheme or MyCSP if they had any questions.

### **Mrs R's position**

24. The information which she received about the PCSPS and CSCS in 2007 was inadequate and confusing. She relied upon the February 2007 version of the leaflet "Pension Choices – your pension, your choice" when making her decision to transfer her service from the LGPS and NHS Pension Scheme to the PCSPS. This leaflet did not say that service transferred to the PCSPS from public sector service schemes by means of the Club would not be allowed for in the calculation of the compensation from the CSCS on VR.
25. It was not made clear to her that she should obtain further information about the PCSPS and CSCS before making her decision on whether or not to transfer.
26. Prior to accepting her transfer of pension rights on Club terms, it should have been explained to her how the transferred in service would be treated in the calculation of both her pension and compensation rights on VR so that she could change her mind, if necessary.
27. If she had accessed the Civil Service Pension Scheme website in 2007, she could not have found out on her own that service transferred in from the LGPS and NHS Pension Scheme would not count for CSCS compensation purposes. If she had asked MyCSP about the effect of VR on how the benefits available to her from the PCSPS and CSCS would be calculated, it was doubtful that she would have received a satisfactory response in time for her to make an informed decision.
28. While she could not have foreseen when she joined DWP that she would later be entitled to compensation from the CSCS, she could also not have known at the time that her transferred in service would not count in the compensation calculation.
29. The CSCS guidance which prompted her to investigate the VR option further was also lacking. It did not explain that a "previous employer" had to be a "Civil Service Employer" and her former employers in the public sector did not fall into this category.
30. The information about the Club on the Civil Service Pension Scheme website does not mention that service transferred into the PCSPS on Club terms would not be taken into account when calculating CSCS compensation available on VR.
31. She says that:

"...in practice, no reasonable person would have assumed anything else other than if you transfer in pension entitlement, you transfer rights to redundancy too - unless there was something very specific and upfront that told me this – which there wasn't.

Now more than ever before the line between what counts as public and what counts as civil service has increasingly blurred - which only strengthens my argument that all my public sector work should have counted as reckonable service for both pension and compensation rights.

It is completely complacent of Civil Service HR and DWP as an employer just to say leaflets can't cover every circumstance. That may be true. But when

you are recruiting externally from another public sector organisation, you need to take that extra step to help a new member of staff know whether they should transfer in their pension entitlement or whether it was best leaving it in the local government scheme. Fundamentally, you should not be in a significantly worse position than someone coming to the civil service on a TUPE transfer, whose full service would have been counted.”

32. In response to a freedom of information (**FOI**) request about how the Cabinet Office had exercised its discretion to approve requests for service covered by another scheme to be included when calculating benefits under the CSCS between 1 December 2017 and 31 March 2018, the Cabinet Office replied as follows:

“167 exit schemes from other Government departments were submitted and approved by the Cabinet Office during this period.

Of those, there were three schemes that included other service as part of reckonable service. All three exit schemes were for Public Health England, which had long-standing approval from Cabinet Office Ministers under Rule 12.1.4 (1) (3) for previous service in the NHS to count as reckonable service.”

33. The Cabinet Office also said that it approved a further six schemes during this period which included service for non-civil service employers.
34. If DWP had submitted a request to the Cabinet Office for her transferred in service to be allowed for in the calculation of the compensation available from the CSCS, it would most likely have been granted by the Cabinet Office given her strong case. DWP chose not to do this and asked her to make a complaint under IDRPs instead.
35. Apart from enabling her to consolidate her pensions, she is not convinced that there were any other benefits from the Club transfers to the PCSPS. In her view, it would have been beneficial for her not to have transferred. She could then have received tax-free lump sums from the LGPS and NHS Pension Scheme on retirement at age 60 without having to give up part of her pension as is the case in the PCSPS.

### **The position of the Cabinet Office**

36. It generally only considers requests from employers for transferred in service to be allowed for in the calculation of CSCS compensation where there have been compulsory bulk/TUPE transfers or for recruitment purposes.
37. Mrs R has not suffered any financial loss by transferring her pension rights from the LGPS and the NHS Pension Scheme to the PCSPS. The compensation amount available to her from the CSCS would have been the same regardless of whether or not she had transferred.
38. Mrs R's transferred in service has been included in the calculation of the retirement benefits available to her from the PCSPS.

39. The Civil Service Pension Scheme website gives members access to all of the available scheme booklets and leaflets, including those explaining early exit options.
40. The following booklets were available on the website at the time Mrs R joined DWP in July 2007:
  - Pension Choices – Your pension, your choice (February 2007);
  - Premium Pension Scheme (January 2006);
  - CSCS - Early retirement and redundancy for classic plus, premium and partnership pension account members – a guide to what is available (December 2005); and
  - The Public Sector Transfer Club – A guide for members of Club schemes (April 2006)
41. If, as Mrs R has asserted, information on redundancy was critical in her decision to transfer her pension rights from the LGPS and NHS Pension Scheme to the PCSPS, it is reasonable to expect that she would have read the CSCS booklet. On page 21, it clearly stated that current reckonable service did not include service arising from rights transferred in from another pension scheme.
42. Mrs R's transfer of pension rights was under Club terms which are typically more generous than non-Club transfers.
43. The Public Sector Transfer Club booklet explained that such a Club transfer would buy a service credit but did not say that this would be treated as continuous service in the receiving scheme. The booklet provided details of circumstances where the service credit might be different from the reckonable service in the transferring scheme and, in particular, said that:

“...qualification for pension scheme and early retirement benefits will depend in each scheme's rules.”

It also referred members of the PCSPS to MyCSP if they had any questions.
44. The letter dated 28 June 2008 from DWP to Mrs R made it clear that her service credit in the PCSPS was different from accrued reckonable service. Note A of this letter correctly stated that any reckonable service credited to her would not be taken into account for compensation purposes in the CSCS.
45. Mrs R had all the relevant correct information at the time of the transfer in 2008 to make an informed decision.
46. Mrs R has previously said that:



“At the time of joining and making my decision to transfer my pension into the Civil Service Pension Scheme, I could not have known that I would ever have found myself in a position where I would lose my job.”

This would cast doubt on her stance that a redundancy situation was critical to her decision to transfer.

47. There is no evidence to support Mrs R’s allegation that it has discriminated against her. Public Health England was created in 2013 through the compulsory transfer of approximately 5,000 staff from the NHS. Ministers agreed that individuals whose transfer into the Civil Service from the NHS was compulsory could have their service within the NHS considered for compensation payments. This was because they had no choice about their employment situation. This did not apply in Mrs R’s case. She voluntarily joined the Civil Service and freely chose to transfer her pension rights from previous employments into the PCSPS.

### **Adjudicator’s Opinion**

48. Mrs R’s complaint was considered by one of our Adjudicators who concluded that no further action was required by the Cabinet Office and MyCSP. The Adjudicator’s findings are summarised below:-

- The PCSPS and the CSCS are statutory schemes made under the Superannuation Act 1972. The rules of the PCSPS and CSCS govern payment of benefits from these schemes. In its capacity as the administrator of the PCSPS and CSCS, MyCSP must act in accordance with these rules and within the framework of the law.
- MyCSP therefore had to follow any procedure laid down in the provisions of the PCSPS rules and CSCS rules, as qualified by overriding pension legislation, when:
  1. dealing with Mrs R’s request to transfer her service from the LGPS and NHS Pension Scheme to the PCSPS; and
  2. calculating the amount of compensation available to her from the CSCS on VR.
- MyCSP and the Cabinet Office explained in their IDRPs decision letters why Mrs R’s transferred in service from the LGPS and NHS Pension Scheme did not count when calculating the compensation available to her from the CSCS on VR. In the Adjudicator’s view, their explanations were correct.
- The Government decided whether an employer in the public sector was a civil service employer. Mrs R’s previous public sector employers prior to joining the DWP were not such employers. They could not offer Mrs R membership in the PCSPS and she had to join the LGPS and NHS Pension Scheme.

- Rule 12.1.3, the relevant sections of which have been reproduced in the Appendix below, described the service to which the CSCS applied. As the service which Mrs R transferred into the PCSPS did not come from a civil service employer, it could not therefore be taken into account automatically in the calculation of her CSCS compensation on VR.
- Mrs R contended that if the DWP had asked the Cabinet Office for her transferred in service to be included for the purposes of calculating the compensation available from the CSCS, its request would likely have been accepted. The Adjudicator, however, saw no concrete evidence which supported this contention. It was at the DWP's discretion to submit such a request and it chose not to do so. Moreover, given the Cabinet Office's position on when it generally considered such requests, in the Adjudicator's view, it would have been unlikely that such a request would have been granted in Mrs R's case.
- Mrs R asserted that it would have been in her interests to have kept her pension rights in the LGPS and NHS Pension Scheme because she did not have to exchange part of her pension for a tax-free lump sum on retirement at age 60.
- The rate at which Mrs R's pension rights accrued in the LGPS and the NHS Pension Scheme was 1/80ths for each year of pensionable salary, and she would also have been automatically entitled to a tax-free lump sum, normally three times the amount of her pension. The accrual rate used to calculate her pension from the PCSPS was 1/60ths and was higher than the LGPS and NHS schemes. However, after encashing part of it for a tax-free lump sum, the residual pension would, effectively, also have been calculated on a basis roughly equivalent to 1/80ths. The method of calculating the pension and tax-free cash available to Mrs R from the PCSPS was, to all intent and purposes, equivalent to the one used for the LGPS and NHS Pension Scheme. In the Adjudicator's view, Mrs R's assertion that she was disadvantaged by now having the option to exchange part of her pension in the PCSPS for a tax-free lump sum on retirement was therefore unfounded.
- Furthermore, the compensation amount available to Mrs R from the CSCS would have been the same regardless of whether or not she transferred. The Adjudicator therefore agreed with the Cabinet Office that Mrs R had not demonstrated that she suffered financial loss by transferring her service from the LGPS and the NHS Pension Scheme into the PCSPS.
- In the Adjudicator's opinion, there had consequently been no maladministration on the part of MyCSP and the Cabinet Office in not taking into account the transferred in service when calculating the compensation payable to her from the CSCS. It was noted that Mrs R said she felt she "had no choice" but to accept VR when the Corporate Centre Strategy was introduced as part of the restructure at DWP.

- Mrs R said that she did not receive sufficiently clear information about the PCSPS and CSCS in order to decide whether transferring service from her previous pension schemes into the PCSPS would be in her best financial interests. In particular, she contended that prior to accepting her transfer of pension rights on Club terms, she should have been told explicitly how her transferred in service would be treated in the calculation of both her pension and compensation rights on VR.
- Mrs R clearly could not have foreseen when she joined DWP in July 2007 that she would leave her job in February 2018 and VR would not have been at the forefront of her mind at the time.
- MyCSP was obliged to disclose certain documents and information to Mrs R in accordance with the Occupational and Personal Pension Schemes Act (Disclosure of Information) Regulations 2013 (**the Disclosure Regulations**). However, most information only needed to be disclosed at the request of Mrs R. The additional information which Mrs R said she should have received about the benefits available to her on VR from the PCSPS and CSCS fell into this latter category. MyCSP was therefore not obliged to have provided this information unless Mrs R requested it. If she had done so and MyCSP had failed to provide a satisfactory response, then she might have had a valid case.
- Mrs R said that she based her decision to transfer her service from the LGPS and NHS Pension Scheme to the PCSPS on the information shown in the February 2007 version of the leaflet, "Pension Choices – your pension, your choice". This leaflet, however, stated that: (a) it only provided an overview of the PCSPS and did not cover every aspect; (b) nothing in the booklet would override the PCSPS rules; and (c) if she required further information in making her choice, she could, in particular, contact MyCSP for it or visit the Civil Service Pension Scheme website.
- If Mrs R had been interested at the time about the effect of VR on the benefits available to her from the PCSPS and CSCS, it had therefore been open to her to research this in more detail, seeking independent financial advice, where appropriate, and defer her decision to transfer service to the PCSPS until she was completely satisfied that it was the correct option for her. By deciding not to do so, Mrs R chose not to make a more informed comparison.
- It was consequently the Adjudicator's opinion that Mrs R's complaint that My CSP and the Cabinet Office had failed to supply her with adequate clear information about the PCSPS and CSCS in order to make an informed decision about the transfer, should also not be upheld.

49. Mrs R did not accept the Adjudicator's Opinion and the complaint was passed to me to consider. Mrs R provided her further comments which do not change the outcome.

50. Mrs R says that:

“The FOI request that I submitted covered a very short period. I’m sure there would be hundreds if not thousands of exceptions granted but the Cabinet Office was unable to supply information for a longer period of time...A proportion of my previous employment was also with the NHS. Surely, awarding discretion to one group of workers from the NHS and not another is discriminatory and therefore unlawful...

You say that I have not suffered any financial loss by transferring my pension rights from the LGPS and the NHS Pension Scheme to the PCSPS. This is not true. I have less overall reckonable service than might otherwise have been the case if my service had remained in two places or pots.

When you buy an insurance policy you get the full terms and with a chance to change your mind. The onus is on the seller to supply that information. I appreciate pensions are somewhat different, but this analogy still applies...

While I take the point that it is not possible to cover every scenario in transfer quotes, surely the absolutely key ones are how much it impacts on retirement and how much it impacts other exits...

I maintain that at the time and given everything that I could have reasonably known my decision was perfectly sensible. There was no detail of anything I needed to be aware of in a redundancy situation.

I maintain that while working for DWP, if I’d had the opportunity, I would have had the support of senior colleagues to submit a case to the Cabinet Office for my transferred in service to be included for the purposes of calculating the compensation available from the CSCS.”

51. I note the additional points raised by Mrs R, but I agree with the Adjudicator’s Opinion.

### **Ombudsman’s decision**

52. Mrs R has complained that the Cabinet Office and MyCSP did not take into account the service which she transferred into the PCSPS from the LGPS and the NHS Pension Scheme on Club terms when calculating the compensation payable to her from the CSCS.

53. I have carefully studied the explanations given by MyCSP and the Cabinet Office in their IDRPs decision letters as to why Mrs R’s transferred in service did not count for the purposes of calculating the compensation available to her from the CSCS on VR. In my view, the detailed reasons which they have provided are correct, and the first part of Mrs R’s complaint cannot therefore be upheld.

54. Mrs R has also contended that, prior to accepting her transfer of pension rights on Club terms, MyCSP failed to explain to her how the transferred in service would be treated in the calculation of both her pension and compensation rights on VR.
55. However, in accordance with the Disclosure Regulations which MyCSP must abide by, this information only had to be disclosed to Mrs R if she made a specific request for it. Mrs R did not do this.
56. Moreover, I am satisfied that there was sufficient information in the booklets and leaflets available to Mrs R from the Civil Service Pension Scheme website or MyCSP on request, for her to ascertain how VR would affect the benefits available from the PCSPS and CSCS before proceeding with the transfer, if she had been interested.
57. I therefore agree with the Adjudicator that it had been open to Mrs R to defer her decision to transfer pension rights to the PCSPS until she was completely satisfied that it would have been in her best financial interests. By deciding not to research this option in more detail or seek suitable independent financial advice, Mrs R chose not to make a more informed choice.
58. In response to the Adjudicator's Opinion, the Cabinet Office submitted as evidence a letter which DWP sent Mrs R on 28 June 2008, concerning the transfer of her pension rights to the PCSPS. Note A of this letter states that any reckonable service credited to her would not be taken into account for compensation purposes in the CSCS.
59. If, as Mrs R contends, she would not have transferred if she had known that her service credit would not count in the compensation calculation, it is reasonable to expect that she would have tried to unwind the transfer after reading this letter. Mrs R did not, however, do this.
60. Mrs R says that she has suffered financial loss by transferring her pension rights from the LGPS and the NHS Pension Scheme to the PCSPS because she has less overall reckonable service than might otherwise have been the case.
61. By accepting the transfer value for Mrs R, the PCSPS must offer benefits of equivalent value to the reckonable service in the LGPS and NHS Pension Scheme. There is no guarantee, however, that the service credit will be year for year because it will reflect differences in pension age or benefit design between the transferring and receiving schemes.
62. Mrs R also asserts that if the DWP had asked the Cabinet Office for her transferred in service to be included in the CSCS compensation calculation, its request would likely have been accepted. I have, however, seen no evidence which substantiates this assertion. As it was at the discretion of the DWP to submit such a request, it was entitled to decide not to do so in Mrs R's case. Furthermore, given the Cabinet Office's position on such requests, I concur with the Adjudicator that if one had been made for Mrs R, it would unlikely have been granted, and for the reasons given by the Cabinet Office, there would not have been any discrimination against Mrs R by declining it.

CAS-40586-H8N5

63. I do not uphold Mrs R's complaint.

**Anthony Arter**

Pensions Ombudsman  
13 December 2021

## **Appendix**

### **The CSCS**

#### **Section 12 2010 Compensation Terms**

##### **12.1.3**

“(1) “Service” in relation to a person (“P”) means the current period of continuous service in employment to which the Scheme applies, including any period of that service during which P is treated as having received Assumed Pay, any period of unpaid leave, any period of unpaid sick absence and any period during which P receives Sick Pay at Pension Rate. This is subject to paragraphs (1A), (2), (3) and (4).

(1A) P does not leave Service so long as P remains in an employment to which this Scheme applies.

(2) Any previous periods of service in such employment do not count towards P’s Service (this is subject to rule 12.1.4(3)).

(3) The following periods do not count towards P’s Service but do not result in that period of Service coming to an end:

(a) any unauthorised absence; and

(b) any break in P’s service which lasts for no more than 28 days.

(4) The following periods do not count towards P’s Service:

(a) any service which reckons under the PCSPS or the 2015 scheme which results from a credit of reckonable service pursuant to a transfer from another pension scheme (this is subject to rule 12.1.4(3)); and

(b) any service which reckons under the PCSPS attributable to a purchase of added years by P or P’s employer.

##### **12.1.4**

(1) “Reckonable Service” in relation to a person (“P”) has the same meaning as P’s Service except as provided for in paragraphs (2) and (4).

(3) If the Minister has so determined, following a request from P’s Employer, all or any part of a period of service:

(a) in an employment to which this Scheme does not apply; or

(b) prior to a person’s current period of service in an employment to which this Scheme applies,

may count as P’s Service or Reckonable Service.”