

Ombudsman's Determination

Applicant	Miss N
Scheme	Principal Civil Service Pension Scheme (the Scheme)
Respondents	Cabinet Office (the Scheme Manager) MyCSP (the Administrator)

Outcome

1. I do not uphold Miss N's complaint, and no further action is required by the Scheme Manager or the Administrator.

Complaint summary

2. Miss N has complained that she was not provided with sufficient information on the Widow's Pension Scheme (**WPS**) refund at partial retirement and as a result she has been disadvantaged financially. Moreover, she alleged that she has not been treated fairly as an unmarried member.

Background information, including submissions from the parties

3. On 6 September 1976, Miss N started work with the Department for Work and Pensions (**DWP**) and joined the classic section of the Scheme.
4. On 3 July 2012, Miss N took partial retirement.
5. On 31 December 2016, Miss N left the Civil Service and took her final retirement.
6. Between January and June 2017, there were several exchanges between MyCSP and Miss N about the WPS refund. Miss N was advised that the WPS refund formed part of the Pension Commencement Lump sum (**PCLS**) but because her total amount of the WPS refund and the PCLS was higher than the 25% permitted as a tax-free lump sum, some of her benefits had to be converted into an additional pension. This was in accordance with the Scheme Rules and was known as "inverse commutation".
7. Between January and November 2018, Miss N wrote to her Member of Parliament (**MP**) about her circumstances. Her MP contacted MyCSP to query the matter. A response was provided albeit it contained incorrect information. The MP was advised

that Miss N could take the WPS as an unauthorised payment subject to the higher tax charges. Miss N also provided MyCSP with a letter from HMRC explaining the treatment of the tax refund.

8. On 21 January 2019, MyCSP wrote to the MP's office to apologise for the confusion it had caused. It confirmed that the option to take a WPS refund as an unauthorised payment only applied if the member was getting the refund without an associated pension. This was not applicable to Miss N's case because she was receiving the refund alongside a pension.
9. Miss N was dissatisfied with the response, so she complained about the conflicting information she had received regarding her ability to claim her WPS refund under the Internal Dispute Resolution (**IDR**) procedure. She contested that, HMRC had informed her that she could decide how to receive the payment if she accepted the higher tax charges. She also complained that she was not provided with the option to exchange her pension for a higher lump sum and her WPS refund had been inversely commuted. Moreover, she complained that MyCSP had issued three different quotes over the course of the process to access her age after partial retirement pension.
10. On 30 April 2020, MyCSP replied under Stage One of the IDR procedure (**the Stage 1 Response**). The complaint was partially upheld. It was accepted that the guidance available for members at the time Miss N took partial retirement was not sufficient, but, in any event, it could only make payments in accordance with the Scheme Rules.
11. MyCSP explained that under Rule 4.23d(ix)(a), upon final retirement, WPS refunds were to be treated as part of the member's PCLS. For a lump sum to be considered an authorised payment, it had to be paid within 12 months of the age after partial retirement pension being put into payment. If the WPS refund and the PCLS exceeded the maximum amount permitted under the HMRC rules (which at the time was 25% of the total value of the benefits or, if lower, 25% of the Lifetime allowance (**LTA**), then in accordance with Rule 1.19, the excess lump sum would be converted into a pension. In Miss N's case, because the WPS refund plus her PCLS exceeded the maximum lump sum permitted under the HMRC rules, the excess had to be converted into a pension.
12. Moreover, the correspondence from HMRC did not apply to Miss N's case. Miss N had partially retired in 2012, but when her employment fully ended on 31 December 2016, this was treated as a second retirement event. It explained that a WPS refund could not be paid at partial retirement under the Scheme rules. Nonetheless, it recognised that it had previously provided Miss N and her MP with incorrect information and quotes. It apologised and said it had informed the MP about the confusion on 21 January 2019. While it accepted it had provided different quotes, it had reviewed the figures against Miss N's record and confirmed that the correct figures were provided on 1 June 2017 and 16 October 2019.
13. On 20 May 2020, Miss N disagreed with the Stage 1 Response and appealed under IDR Stage 2. She requested for her WPS refunds to be returned as an unauthorised

lump sum instead of an additional pension. She said she was not made aware of the impact her partial retirement would have had on her ability to claim a lump sum refund of the WPS contributions. She said that this was due to a lack of correct guidance being made available for members who remain single and unmarried. She also said that no weight was placed on the evidence provided from HMRC.

14. On 2 October 2020, CPS issued its appeal response (**the Stage 2 Response**). The Appeal was not upheld.

Miss N's position

15. She was not provided with the option to exchange her pension for a higher lump sum and her WPS refund was inversely commuted for an additional pension.
16. After inverse commutation the lump sum payable was zero and she would have to live until she is over age 90 to receive the full refund as pension payments.
17. The insufficient information at partial retirement has led to financial losses. If this information had been provided to her, she would not have partially retired.
18. Incorrect quotes were provided to her on several occasions and overstated the amount of the refund due.
19. If she was able to claim a full WPS refund and a higher rate of lump sum she would have received an additional payment of £13,327 on top of the lump sum she had already received.
20. As a single unmarried member, the lack of sufficient information meant that she was treated unfairly. The partial retirement literature was geared towards married members.

Respondents' position

21. MyCSP had apologised for erroneously informing Miss N that she could take her WPS refund as an unauthorised payment. Nonetheless, Miss N could not receive benefits beyond her entitlement under the Scheme Rules. Neither MyCSP nor the Cabinet Office have discretion to vary how the Rules are applied.
22. The Scheme Rules and wider tax legislation did not allow Miss N to receive her refund as a lump sum because the total amount of the PCLS and the WPS refund was higher than the 25% permitted as a tax-free sum. Therefore, some of her benefits had to be converted into an additional pension. The Inverse Commutation of the excess PCLS was in accordance with the statutory scheme rules and guidance.
23. The Scheme Rules do not allow WPS refunds to be paid at partial retirement because the member had not ceased service. Miss N partially retired in 2012 and left the Civil Service in 2016 which was her second and final retirement.
24. The information provided by HMRC did not apply to Miss N's case.

25. They accepted that the information available at partial retirement could have been more detailed, but on the balance of probabilities, Miss N did not demonstrate that she would not have taken partial retirement if she had known of the correct position.
26. Miss N's partial retirement could not be reversed, and she has been able to enjoy increased leisure time because of it.
27. They accepted that incorrect quotes were provided to Miss N. One was provided on 1 January 2017, but a corrected quote was provided on 1 June 2017. A further quote was also provided following the involvement of Miss N's MP which contained an error, but MyCSP had corrected this and provided further quotes to Miss N and TPO.
28. MyCSP offered Miss N £500 in recognition for the distress and inconvenience.

Adjudicator's Opinion

29. Miss N's complaint was considered by one of our Adjudicators who concluded that no further action was required by either of the Respondents. The Adjudicator's findings are summarised below: -
 - The Scheme is a statutory scheme made under the Superannuation Act 1972 and no payments could be made other than in accordance with the Scheme Rules.
 - Rule 4.23d(ix)(a) provided for a single person contribution refund as a PCLS up to the tax limit authorised by the Finance Act 2004 (**FA 2004**).
 - Rule 1.19 provided for inverse commutation where the PCLS and the single person contribution refund exceeded the tax limits.
 - Under the FA 2004, a PCLS could not exceed 25% of the value of the pension being put into payment within 12 months of the PCLS being paid.
 - The PCLS calculation could only be made by reference to Miss N's pension put into payment at the point of her end of service retirement, and disregarding the amount of pension at partial retirement. The limit on her PCLS was therefore low and part of her single pension refund had to be inversely commuted to a pension under Rule 1.19
 - Miss N's WPS refund was paid in accordance with Scheme Rules. It was paid only after her end of service, paid as a tax-free lump sum only to the limit permitted under the FA 2004 and any excess was inversely commuted. The Respondents were correct in not paying it or offering to pay it as an unauthorised payment.
 - For Miss N to qualify for compensation for negligent misstatement or estoppel by representation MyCSP had to have had made an unambiguous statement which was wrong, but on which statement Miss N relied on and, as a result of which, she had suffered a detriment. There was no evidence of such a statement but rather Miss N did not realise, and it was not made clear to her that the effect of taking

partial retirement was that the maximum amount of refund that could be paid as a lump sum would be capped, and that the balance would be paid as a pension.

- In any event, Miss N had personal reasons for taking partial retirement. She wanted to be able to work part time, and therefore it was not clear that she would have not taken partial retirement if she was aware of the position.
- Incorrect quotes were provided which overstated the refund that was due, but this was corrected. Moreover, Miss N did not rely on either of the incorrect quotes in relation to her decision to take partial retirement and as such there was no basis for compensation.
- There was no legal remedy for discrimination based on less favourable treatment as an unmarried person because being unmarried was not a protected characteristic at law. Only unmarried members could receive a single person contribution refund, either paid as a lump sum or additional pension. This is a benefit other members do not receive so there could be no discrimination in a provision that allows it only to be paid as a lump sum to the extent permitted under FA 2004 and as a pension for any excess. The provision of the conversion of lump sum into pension under Rule 1.19 restricting payments that would be “unauthorised payments” under the FA 2004 applied to all members and not just to unmarried members.

30. MyCSP and the Cabinet Office accepted the Opinion and made no further comments.

31. Miss N did not accept the Opinion, and the complaint was passed to me to consider.

32. Miss N provided additional comments, but they do not change the outcome. I agree with the Adjudicator’s Opinion and note the further comments: -

- The Opinion did not refer to Rule 05B which she had provided. She was aware of a member who had been told they could receive a refund of the WPS if they took 100% of their pension at partial retirement. She was also aware of another member who had started their partial retirement and received a full WPS refund along with their lump sum. While she acknowledged she could not disclose confidential information, she said that the information was available in the Civil Service Pension guide published 14 December 2021 and last updated 22 August 2022.
- The information available about Partial Retirement was not as clear or readily available in 2012 or in 2016. Most of the information was relayed to her verbally so she could not prove that MyCSP made an unambiguous statement, other than it had confirmed that no literature was available.
- Since receiving the Opinion, she had written to the Cabinet Office and had asked whether a Classic Member who took 100% of their pension at partial retirement would receive the WPS refund with the lump sum or at final retirement. She also queried whether Rule 05B or Rule 4.23d(ix)(a) applied. She received a reply which explained that as she had taken partial retirement in 2012, the policy at that time was to hold back paying any of the WPS refund until she had fully retired.

- In 2011, an Ombudsman had decided that the information provided by MyCSP about partial retirement and the WPS refund was insufficient¹. Regardless, MyCSP had made no progress in updating the information. The information held on the system at that time in 2012 clearly stated WPS was not affected. This information remained the same, it was not taken down or updated for years. Both the Cabinet Office and MyCSP are responsible for not acting faster to update the literature.
 - She had no reasons for taking partial retirement, other than it was highlighted by the Minister.
 - Ahead of the 2006 Civil Servants Pensions reforms, an employer's pension notice (**EPN**) had been issued to inform of the changes. This had confirmed that there would be no changes to the WPS refunds. Moreover, EPN133 "Tax Simplification – Summary of Changes" had made similar reference to WPS refunds and it was clear and concise and not open to interpretation.
 - At no stage in any of the literature at partial retirement in 2012 was she directed to the Scheme Rules. At no stage verbally or otherwise was inverse commutation raised to her attention by MyCSP. She was not provided with the correct information no matter how many questions she raised.
 - She was disappointed with the outcome especially as she had argued her case for many years and during that time, she had felt anxious. She had not taken any further lump sum or increased her pension yet. She would have preferred if the Opinion had acknowledged the respondents' contribution given the conflicting information regarding partial retirement.
33. Miss N made a request for an oral hearing. This was considered but refused by the Deputy Ombudsman.

Ombudsman's decision

34. Provisions for a refund of the pension contributions for unmarried civil servants are made under Scheme Rule 4.23d(ix)(a). The WPS refund is an additional lump sum when the pension commences under rules 3.1 (ordinary retirement), 3.4 (retirement on medical grounds), 3.10a (retirement after termination of pensionable service), 3.11 (retirement from deferred status), or 3.24a(ii) (downgrading). The additional lump sum forms part of the PCLS for the purposes of Part 4 of the FA 2004. Miss N took partial retirement on 3 July 2012, but commencement of pension on partial retirement is not an event listed under Rule 4.23d(ix)(a) for a WPS refund option. The Scheme Rules effectively require the member to cease service before they can receive a WPS refund.
35. Rule 1.19 provides that where any benefit payable as a lump sum would be an unauthorised payment for the purposes of FA 2004, some or all of such benefit is to

¹ A determination by the Ombudsman, decision 81681/1, 25 August 2011

be paid in the form of a pension (inverse commutation). This applies to the WPS refund. Any amount of WPS refund otherwise payable as a PCLS which exceeds the limits on PCLS under the FA 2004 would be an unauthorised payment under the FA 2004 and subject to unauthorised payment charges. Under the Scheme Rules, it is not payable as a lump sum and must be converted to pension.

36. Miss N ceased service on 31 December 2016 which made her eligible for her WPS refund under Rule 4.23d(ix)(a). Because the WPS refund and her PCLS together exceeded the maximum lump sum permitted under Part 4 of the FA 2004, the excess had to be converted into an additional pension in accordance with Scheme Rule 1.19. As explained in my Adjudicator's Opinion, the maximum lump PCLS permitted under the FA 2004 is calculated by reference to pension put into payment within 12 months of the PCLS being paid and could not take account of the partial retirement pension.
37. I find that Miss N's WPS refund was paid in accordance with the Scheme Rules. It was paid only after her end of service and paid as a tax-free lump sum but only to the limit permitted under the FA 2004. I find that any excess was correctly converted into an additional pension under Rule 1.19.
38. I have considered Miss N's additional comments, but they do not change the outcome. There is incidentally no rule 05B in the Scheme Rules. Section 05B seems to be part of the Alpha Guide and applicable to the Alpha Scheme.
39. While it's been accepted that the information at the time lacked detail and has previously been deemed as insufficient by another Ombudsman, Miss N's WPS refund was paid correctly and in accordance with the Scheme Rules. The Respondents could not make a payment to her which was not permitted under the Scheme Rules.
40. While the information lacked detail and may have been insufficient, I have found no evidence of an unambiguous statement which was wrong, but on which Miss N reasonably relied and was expected to rely and as a result suffered a detriment. While Miss N said that the information was mostly relayed to her verbally, she did not claim that she was misinformed but rather it seemed that it was not made clear to her the effect of taking partial retirement on her WPS refund and PCLS at final retirement. As such, I find there can be no basis for compensation on the basis of negligent misstatement or estoppel by representation. This applies whether or not Miss N would have chosen not to take partial retirement had she fully understood the effect of the provisions on which I make no finding.
41. For the reasons set out in my Adjudicator's Opinion, I also find that Miss N has not been discriminated against as an unmarried person. The WPS refund is a benefit only offered to unmarried members. The inverse commutation provisions are intended to provide equivalent value in pension form, on an actuarial basis, and to ensure that the WPS refund is paid in the most tax efficient form and avoiding unauthorised payments. Neither the terms of the WPS refund option nor the terms for inverse commutation could be seen as discriminatory.

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42. Therefore, I do not uphold Miss N's complaint, but should Miss N request it, MyCSP should arrange to pay her the £500 it has offered as compensation for the distress and inconvenience caused by the lack of clarity in the information it provided.

Camilla Barry

Deputy Pensions Ombudsman
06 August 2025

Appendix

Principal Civil Service Pension Scheme

Section II (The 1972 Section)

Section 4 Part 2 Widowers' Pensions

Contributions

4.22 (i) A civil servant in service on 1 July 1987 will, whilst in service, pay periodical contributions of 1½ % of salary (or wages) from the first pay period commencing on or after 1 July 1987 until the end of her pensionable service. Where a pay period does not commence on 1 July 1987, contributions will be deemed to have been paid for the period between 1 July and the commencement of the first pay period after 1 July 1987. A civil servant who commences employment or reemployment in the Civil Service after 1 July 1987 will pay periodical contributions of 1½% of salary (or wages) from the date of commencement of employment until the end of her pensionable service. For the purposes of this rule, "salary (or wages)" includes statutory maternity pay, statutory paternity pay and statutory adoption pay.

4.23a When an unmarried civil servant, including one to whom rule 4.22 (ii) applies, dies in service or ceases to be a civil servant, contributions at the rate of 1½% of salary or wages or, in the case of an option under rule 4.22a(iv) in respect of the receipt of a transfer value, at the rate set out in the column headed "Contribution for family benefits" of either of the Added Years tables in Appendix 10 to this scheme as in force on 6 April 2006, as appropriate, will be due in respect of any of the following kinds of service except where rule 4.23aa applies:

(i) her reckonable service between 1 July 1987 and 5 April 1988 (which for the purposes of this sub-rule, shall include both earlier reckonable service in respect of which she has opted to purchase widower's pension benefits under rule 4.22a and earlier reckonable service to which rule 4.22 (ii) applies), except that:

(a) if she never had a husband while serving as a civil servant, no contributions will be due;

(b) if she died in service or left the service before 6 April 1988, being unmarried at the time or if she was in service on 5 April 1988 being unmarried on that date, contributions will be due only up to the date her last marriage ended;

(c) if contributions are due for a marriage which ended before 1 June 1972 and if the civil servant never remarried while still in service, those contributions will be at the reduced rate of 1¼% of salary or wages payable under rule 4.11, whether or not she opted for this under that rule;

(d) if she opted under rule 4.11 to pay reduced contributions for her reckonable service before 1 June 1972 contributions will be due in respect of such service at the reduced rate of 1¼% of salary or wages ;

(iii) her reckonable service on or after 6 April 1988, except that:

(a) if she dies in service, or

(b) if she ceases to be a civil servant without qualifying for a widower's pension under rule 4.21 and without applying for a transfer value under and in accordance with section 6,

no contributions will be due in respect of any period since her last marriage ended or in respect of the whole of that service if she was unmarried throughout it. For the purposes of this paragraph reckonable service includes service before 1st March 2008 in excess of 5 years during reemployment after the pension age for which a payment calculated as in rule 3.2 is made and service which is disregarded under rules 3.35 or 3.35d and if her reckonable service during the period beginning on 6 April 1988 exceeds the limits in rule 2.3, those limits will not apply for the purposes of this rule. No contributions are due in respect of service that reckons under rule 2.32;

(iii) any enhancement of reckonable service under rules 3.4, 3.10d, 3.24a(ii), or rule 2.2 of the Compensation Scheme (or former rule 10.4 as set out at Appendix 1 of the Compensation Scheme or former rule 10.5 as set out at Appendix 2 of the Compensation Scheme), such enhancement being regarded as service falling under paragraph (i) or (ii) according to the date on which the enhancement is credited.

(iv) In rule 4.23a the words "salary or wages" include statutory maternity pay, statutory paternity pay and statutory adoption pay.

4.23d (iv) Where an unmarried person ceases to be a civil servant on or after 1 December 1989, contributions due under rule 4.23a(ii) may be reassessed as if she had died in service on the date that she ceased to be a civil servant, if she ceases to be a civil servant — at age 60 or over; or — before age 60 with a preserved pension under rules 3.11 or 3.24a(ii), and remains unmarried until the pension comes into payment; — before age 60 if she has a prospective pension under rule 3.1 because rule 1.4e (inactive members) applies to her, and she remains unmarried until the pension comes into payment; or — before age 60 with an ill health pension under rule 3.4 or a pension under rule 3.10a. If the contributions (taking into account deductions under rule 4.23b) paid in respect of service on or after 6 April 1988 exceed the contributions reassessed as due, a refund will be paid to or in respect of her in accordance with paragraph (ix). This is subject to paragraphs (xii) and (xiii). The refund will be made up of the balance — beginning with the last contribution paid — with compound interest, less a premium calculated in accordance with guidance provided by the Scheme Actuary.

4.23d(ix)(a) When this paragraph applies:

(a) the refund of contributions payable to the civil servant shall be paid as an additional lump sum when her pension commences under rules 3.1, 3.4, 3.10a, 3.11, or 3.24a(ii) (the additional lump sum shall form part of the civil servant's pension commencement lump sum for the purposes of Part 4 of the Finance Act 2004); and

Conversion of lump sum into pension

1.19 This rule applies where any benefit payable as a lump sum under the rules would be an unauthorised payment for the purposes of Part 4 of the Finance Act 2004 (see section 160(5) of that Act). The Minister may determine in such cases that some or all of the benefit shall instead be paid in the form of a pension calculated in accordance with guidance provided by the Scheme actuary. This rule does not apply to any refund of contributions payable under paragraph (xiii) of rules 4.19 or 4.23d.