

Ombudsman's Determination

Applicant	Mr Y
Scheme	Principal Civil Service Pension Scheme (the Scheme)
Respondents	Cabinet Office, MyCSP, Identity & Passport Service (IPS)

Outcome

1. Mr Y's complaint against MyCSP and IPS is partly upheld, but there is a part of the complaint I do not agree with. To put matters right, for the part that is upheld, MyCSP and IPS shall compensate Mr Y for the significant distress and inconvenience they caused him by their mishandling of his case.
2. My reasons for reaching this decision are explained in more detail below.

Complaint summary

3. Mr Y has complained that his former employer, IPS, and the Scheme administrator, MyCSP, failed to inform him that he would not be able to accrue benefits in the Scheme in respect of his new period of employment with IPS until the enhancement under the Civil Service Compensation Scheme, (**CSCS**), from his first period of service had expired.
4. Mr Y claims that had he received the correct information from the outset, he would not have joined the Scheme but sought alternative pension provision.

Background information, including submissions from the parties

5. On 28 April 2006 Mr Y left employment with the Department for Work and Pensions, (**DWP**) and claimed his Scheme pension early. He was granted enhanced benefits under the CSCS. The reckonable service used to calculate his enhanced benefits was 3 years and 159 days.
6. On 25 June 2007 Mr Y re-joined the Civil Service working for IPS.
7. Mr Y says that he told IPS Human Resources that he was receiving pension benefits, having worked previously for DWP, and he had contacted Capita to tell them about his re-employment. Capita told Mr Y that the level of his re-employed salary did not affect his pension.

8. On 31 May 2013 Mr Y left IPS and asked MyCSP to process his pension benefits in respect of his service commencing 25 June 2007.
9. On 13 August 2013 MyCSP emailed IPS confirming that it had found an error on Mr Y's record and he was not entitled to join the Scheme for the duration of his enhancement under the CSCS. It stated that Mr Y should have joined the premium section of the Scheme on 2 October 2009, which would have been the end of his enhancement period and any contributions made before this date would need to be refunded.
10. On 6 September 2013 IPS calculated Mr Y's refund and on 30 September 2013 paid him £625.67.
11. On 2 October 2013 Mr Y contacted MyCSP asking when it would be processing his pension benefits and was told that it was waiting for IPS to carry out further work.
12. On 14 October 2013 Mr Y wrote to MyCSP and IPS to register his complaint and on 24 October 2013, was told by IPS that as his complaint was a pension matter, it was only for MyCSP to respond. However, on 28 October 2013 MyCSP emailed Mr Y and said his complaint was an employment issue and it was for IPS to respond.
13. On 30 October 2013 MyCSP wrote to Mr Y stating that it was waiting on further information from IPS to help with its investigation.
14. On 27 November 2013 Mr Y emailed both MyCSP and IPS to complain about the lack of progress in dealing with his complaint.
15. On 29 January 2014 IPS apologised for the delay and said, although he was incorrectly informed about his pension benefits, the Scheme regulations had been correctly applied and the contributions refunded.
16. On 17 June 2014 Mr Y complained to MyCSP under the first stage of its Internal Dispute Resolution Procedure (**IDRP**).
17. On 10 September 2014 the IDRP stage one decision was sent by Civil Service Pensions (**CSP**). It stated that MyCSP was to correct any errors and make any payments due.
18. CSP did not uphold the first part of Mr Y's complaint that he should receive the accrued pension benefits for the quarantine period of 25 June 2007 to 1 October 2009. In reference to the quarantine period, it said that anyone returning to the Civil Service cannot re-join the Scheme until the period of enhancement has expired.
19. CSP agreed that MyCSP and IPS had caused avoidable delays in answering Mr Y's complaints and processing his refund. This part of Mr Y's appeal was upheld.
20. Mr Y appealed the decision, wishing to retain the additional benefits gained on re-joining the Scheme.

21. On 17 June 2015, The Pension Schemes Executive (**TPSE**), at stage two of the IDRP upheld the stage one decision and confirmed that it did not have the authority to vary how the Scheme regulations are applied.
22. With regard to Mr Y's complaint concerning MyCSP's and IPS's handling of his case, TPSE stated that MyCSP and IPS both mishandled Mr Y's case. It said that they should pay compensation to him of £150 and £250 respectively.

Adjudicator's Opinion

23. Mr Y's complaint was considered by one of our Adjudicators who concluded that further action was required by Cabinet Office and MyCSP. The Adjudicator's findings are summarised briefly below:-
 - Mr Y is only entitled to the correct benefits in accordance with the Scheme regulations and not the incorrect ones accrued in error.
 - The Scheme is a statutory one governed by the Scheme's regulations therefore any redress should seek to restore Mr Y to the position he would have been in had the error not occurred. Mr Y has correctly received a refund of contributions for the period during which he was not entitled to be a member of the Scheme.
 - The amount of £625.67 that IPS refunded to Mr Y was without interest. The Adjudicator was of the opinion that IPS should pay Mr Y interest on the amount it refunded.
 - Mr Y contends that had he been given the correct information from the outset he would not have joined the Scheme and would not have contracted out of the State Second Pension Scheme. However, he has not demonstrated financial loss as a result of being misled.
 - Because there was more than one incidence of maladministration, the Adjudicator was satisfied that both MyCSP and IPS caused Mr Y significant distress and inconvenience. She said that the payment in respect of his suffering should be increased to £500 from each respondent. Therefore, MyCSP should pay Mr Y in addition to the £150 recommended by TPSE, an additional £350, and IPS should pay £250, in addition to the compensation it has already paid.
24. Mr Y did not accept the Adjudicator's Opinion and the complaint was passed to me to consider. Mr Y provided his further comments which do not change the outcome.

Ombudsman's decision

25. Mr Y asserts that if his application to re-join the Scheme had been refused he would not have been contracted out of the State Second Pension Scheme which would have provided him automatically with extra cover. However, IPS has confirmed to this office, that for the period in question that he was contracted out, it will pay a

contributions equivalent premium to reinstate Mr Y back into the State Scheme. Therefore he has suffered no financial loss in this regard.

26. Given the way in which the matter has been handled by both respondents, I agree with the Adjudicator that the award in respect of non-financial loss, due to the significant distress and inconvenience suffered by Mr Y, should be increased to £250 by IPS, in addition to the £250 already paid, and £500 by MyCSP. Further, IPS should pay interest on the contributions amounting to £625.67, that it refunded to Mr Y.
27. Therefore, I partly uphold Mr Y's complaint.

Directions

28. Within 21 days of the date of this Determination:
- (i) MyCSP will pay Mr Y £500 and IPS will pay Mr Y an additional £250 in respect of their maladministration; and
 - (ii) IPS will pay Mr Y simple interest on the £625.67 refund of contributions, at the rate quoted for the time being by the reference banks. The interest should be applied from 30 September 2013 to the date of payment.

Anthony Arter

Pensions Ombudsman
4 August 2017