

Ombudsman's Determination

Applicant	Mrs R
Scheme	Principal Civil Service Pension Scheme (PCSPS)
Respondents	MyCSP Cabinet Office

Outcome

1. I do not uphold Mrs R's complaint and no further action is required by MyCSP and Cabinet Office.
2. My reasons for reaching this decision are explained in more detail below.

Complaint summary

3. Mrs R has complained that MyCSP initially underpaid her pension when she took formal retirement in 2006. She has also complained that MyCSP subsequently provided her with incorrect information, over a number of years, regarding the benefits she would receive when she took final retirement in 2015. As a consequence, when her pension was paid, it was less than she had been advised.
4. Mrs R also does not feel that £850 she has been awarded adequately compensates her for her loss or provide sufficient redress for the distress and inconvenience she has suffered.

Background information, including submissions from the parties

5. When Mrs R reached age 60 on 13 April 2006, she elected to partially retire (otherwise referred to as "formal" retirement) from her role at the Department for Work and Pensions (**DWP**), and simultaneously draw her accrued pension. She was re-employed by DWP shortly afterwards and was then continuously employed until 30 September 2015.
6. On 9 June 2014, MyCSP provided Mrs R with a retirement estimate. This was calculated to 31 December 2014 and quoted an annual pension of £15,247.07.

7. Early in June 2015, Mrs R elected to retire from work completely and claim payment of her the additional benefits accrued from DWP. On 14 August 2015, MyCSP issued a retirement pack, calculated to 30 September 2015, quoting a total maximum pension of £15,695.45.
8. On 20 August 2015, Mrs R queried these figures with MyCSP and received a response by email, on 2 September 2015. The response explained that Mrs R's pension had been overstated by £952.62 and that her correct entitlement was £14,742.83. The reason given for this discrepancy was that Mrs R's pension has been subjected to a Guaranteed Minimum Pension (**GMP**) deduction.
9. On 29 October 2015, MyCSP issued Mrs R with an incorrect finalisation statement, confirming a pension amount of £15,678.01. A separate letter was then sent on 2 November 2015. This letter provided a more detailed explanation of how Mrs R's pension has been calculated and included further information regarding the GMP deduction. It also confirmed a different pension figure of £14,752.39 as being her correct entitlement.
10. On 12 November 2015, MyCSP issued an amended finalisation statement quoting a final benefit payable of £14,752.39.
11. In December 2015, MyCSP wrote to Mrs R and offered her £350 in compensation for the late notice it had provided regarding the GMP deduction and for the general poor service in settling her retirement benefits. Mrs R did not accept this offer.
12. There then followed a protracted period of correspondence between both parties that resulted in Mrs R complaining under PCSPS's internal dispute resolution procedure (IDRP). The stage one response was issued on 24 March 2016. MyCSP did not uphold Mrs R complaint.
13. After Mrs T submitted her request for a stage two decision she was informed by MyCSP that her pension had been underpaid by a total of £698.27 per annum from the date of her formal retirement in 2006 to 2016. MyCSP also explained that due to an administration error her pension had been temporarily suspended and when it was reinstated she had been overpaid £978.21. This meant there was a net over payment of £279.94. MyCSP did however subsequently write off this amount and paid Mrs T an additional £500.
14. On 4 July 2016 the stage two decision was issued by Cabinet Office, and while it acknowledged MyCSP's failings it did not uphold Mrs T's complaint. Cabinet Office felt the two compensation payments of £350 and £500 were sufficient given the circumstances of the case
15. Mrs R has stated that there was no reasonable way for her to know a GMP deduction was applicable and the lack of notice meant she had no way to compensate, for what she believes is a significant shortfall in her monthly income. Mrs R has also said she believes MyCSP have incorrectly informed Cabinet Office that she is the only person effected by this GMP issue.

Adjudicator's Opinion

16. Mrs R's complaint was considered by one of our Adjudicators who concluded that no further action was required by MyCSP and Cabinet Office. The Adjudicator's findings are summarised briefly below.
- The underpayment and general poor administration of Mrs R's pension amounts to maladministration. However, maladministration in the form of misinformation does not, in and of itself, give an entitlement to the incorrectly stated benefit.
 - MyCSP is only bound to pay the correct benefits due to a member, calculated in accordance with the rules of the PCSPS.
 - The GMP deduction cannot be waived or otherwise offset, and is a consequence of Mrs R being contracted out of the State Earnings Related Pensions Scheme (**SERPS**), and later the State Second Pension (**S2P**).
 - Mrs R was provided with information that was calculated incorrectly and so she was never entitled to the higher pension as stated.
 - There is no evidence to suggest Mrs R would have acted differently had she known of her correct entitlement. On the balance of probabilities, she would have still retired when she did, as the monthly difference in pension benefits amounted to £77.13.
 - The compensation offered was reasonable, given the circumstances.
17. 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. I agree with the Adjudicator's Opinion, summarised above, and I will therefore only respond to the key points made by Mrs R for completeness.
18. Mrs R's disagreement can be summarised as follows.
- Mrs R believes the lack of notice that her monthly pension would be less than she expected means she was left with no time to plan for the shortfall.
 - MyCSP is guilty of maladministration from 2006 to date and she has only been partly compensated for its errors.
 - Had she known her correct entitlement, she would have saved more money while she was working to better offset the shortfall.
 - In seeking to resolve this matter, she has suffered considerable stress at a time in her life when she should be enjoying a carefree retirement.

Ombudsman's decision

19. MyCSP acknowledged that an error occurred, and that Mrs R was disadvantaged as a result. Consequently, it follows then that she should be compensated for this. However, this error does not give Mrs R an automatic entitlement to receive the incorrect, overstated pension.
20. The error that led to the various incorrect statements Mrs R received stemmed from a miscalculation of her GMP entitlement. This was then compounded by a separate, previously undisclosed, GMP deduction being made which further reduced her pension benefits. These errors amount to maladministration.
21. The GMP deduction was a requirement under PCSPS rules and as such had to be deducted. So by making this deduction MyCSP was correctly following PCSPS rules. I accept that MyCSP could have given Mrs R more notice regarding the GMP deduction, however this would not have altered the fact that the deduction had to be made.
22. Despite the maladministration, I am satisfied that Mrs R is now in receipt of the correct level of benefit she is entitled to from PCSPS. I therefore need only look at whether Mrs R has suffered a financial or non-financial injustice as a result of MyCSP's maladministration.
23. Mrs R was provided with misleading pension statements shortly before her final retirement in 2015, and would have had no way of knowing that the information she had been provided with was incorrect. Consequently, it is reasonable that she relied on this information when making her future plans. Mrs R believes that, as a minimum, she should receive £1,000 in compensation to represent roughly one years' worth of her perceived pension loss. She says this payment will allow her a grace period during which time she can adjust her finances to take into account the shortfall in her monthly income.
24. The Adjudicator asked Mrs R about her finances and she has confirmed that her outgoings remain the same now as they were when she believed she was entitled to a higher amount. So there has been no material impact in her day to day living expenditure nor has Mrs R made an attempt to mitigate any shortfall. Mrs R has also not referenced any particular steps she took as a consequence of the misinformation provided by MyCSP. She does however argue that the lower monthly income has affected her ability to adequately save for eventualities such as her "boiler breaking down". Mrs R also points out that at this stage of her life, she is unlikely to be able to secure further employment to help offset the monthly shortfall of £77.13.
25. In these circumstances, and taking into account the amount of shortfall, I am not convinced that Mrs R would have made a different decision, either in respect of her ultimate retirement date or her lifestyle choices. Regarding her inability to now save against future eventualities, this is not something for which I will compensate her because she is in receipt of the correct pension. Further, although Mrs R has

intimated that she would have been more frugal in the run up to her retirement had she known her correct entitlement, she has not been able to point to any specific areas of expenditure that she would not have been able to meet when taking into account the £77.16 shortfall.

26. Mrs R has therefore suffered a loss of expectation. This is a non-financial loss and compensatory awards for losses of this type are not intended to bridge the gap between the amount actually received, and the amount the recipient expected to receive. Generally, the usual starting point for compensatory awards where there has been significant distress and inconvenience is £500. However, there may be circumstances where a higher amount is warranted.
27. Mrs R believes MyCSP's offer of £850 compensation does not adequately compensate her in this case because this offer was broken into two separate parts during the complaint. First, she was offered £350 on in respect of the late notice given to her regarding the GMP deduction. Later, she was offered an additional £500 due to the fact her pension had been underpaid. MyCSP also wrote off the £279.94 overpayment, therefore, I do not agree with Mrs R. Compensation is not meant to be penal and when making awards, I do not look to ascribe a particular amount to each instance of maladministration. Instead, I make an award taking into account the extent of the distress and inconvenience suffered. When reviewing all the circumstances of the entire complaint, I consider £850 compensation, in addition to writing off the £279.94 overpayment, to be reasonable in the circumstances.
28. Therefore, I do not uphold Mrs R's complaint against either MyCSP or Cabinet Office.

Anthony Arter

Pensions Ombudsman
14 February 2017