

Ombudsman's Determination

Applicant	Mr Y
Scheme	Principal Civil Service Pension Scheme (the PCSPS)
Respondents	The Cabinet Office MyCSP

Outcome

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

Complaint summary

3. Mr Y's complaint concerns incorrect statements that he received. The information had been factored into his retirement planning and he is now financially disadvantaged. This has impacted his health, his work and his financial future.

Background information, including submissions from the parties

4. Mr Y worked for the Metropolitan Police Service (**MPS**) between September 1988 and March 1997. Over that period he was a member of the Metropolitan Civil Staffs Superannuation Scheme (**MCSSS**) and accrued approximately 8.5 years' service.
5. In March 1995 Mr Y applied to purchase Added Years within the MCSSS. He agreed to purchase 10 years 190 days in exchange for 12.31% of his salary. This was submitted on 12 April 1995. When he left this role he had paid for a total 1 year 22 days.
6. Additionally he transferred preserved service of 4 years 265 days into the MCSSS.
7. In October 2002 Mr Y joined the MoD, became a member of the Premium section of the PCSPS and enquired about aggregating his MCSSS service into the PCSPS. This option was not followed up by MyCSP at the time.
8. By June 2007 Mr Y had accrued 4 years and 243 days within the PCSPS.
9. In November 2007 the option to aggregate his service was reopened for Mr Y and MyCSP wrote to him setting out the options available. This included the statement:

“Option 1

Your preserved benefits are cancelled and instead we pay you a pension based on the total of your previous service plus your current service, and calculated using your current final pensionable earnings.

Please note that your previous reckonable service of 27y302d will be reduced to take account of the better benefit structure we now provide. You will be credited with 26y070d service.”

10. Mr Y signed and returned the option form confirming he wished to aggregate his service under option 1.
11. MoD records from November 2007 show the following benefits being added to Mr Y’s record:

“Preserved (03.06.69 to 31.03.97 = 27y302)

...

Service credit = 26y070.”

Other documents support Mr Y’s start date as being 3 June 1969.

12. On aggregation Mr Y’s preserved benefits with MCSSS ought to have been cancelled, as confirmed to Mr Y in a later letter dated 19 November 2007; however they were not. Either the MoD failed to advise Capita, the then Administrators of MCSSS, or Capita failed to act on an instruction it received.
13. I understand Capita continued to send Mr Y annual benefit statements following the aggregation. In June 2012 Capita quoted the value of this un-cancelled pension (**the MCSSS pension**) as £5,936.87 per year in income with a lump sum of £17,810.63.
14. From 2007 onwards Mr Y received annual statements from the PCSPS which over time showed reckonable service of 36 years 319 days.
15. In July 2013 Mr Y wrote to MyCSP for an estimated benefit statement. It confirmed:
At age 60 – 36 years 319 days service
At age 65 – 41 years 319 days service
16. In September 2014 Mr Y submitted a claim form for the MCSSS pension. By this time MyCSP had been made administrator of the MCSSS.
17. In October 2014 Mr Y made efforts to contact MyCSP and discuss his pensions. He provided details of his employment and MyCSP confirmed it would investigate. Mr Y, dissatisfied with the delays, explained that he had hoped to retire in February 2015.
18. In December 2014 MyCSP contacted MPS for details of Mr Y’s service. It responded on 13 January 2015 and confirmed Mr Y’s correct service as:

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Service: 5 September 1988 to 31 March 1997

Transferred in: 4 years 265 days

Total service: 13.29 years

19. MyCSP wrote to Mr Y and confirmed that the MCSSS pension had not been cancelled as it should have been. It apologised for the error but confirmed it would only be paying the MoD pension. Separately, it said it would be investigating the discrepancy in the number of years Mr Y was said to have accrued.
20. Mr Y complained via the internal dispute resolution procedure (**IDRP**). MyCSP issued its stage 1 response on 9 March 2015. It explained that it could not pay the MCSSS pension as Mr Y had chosen to aggregate this with his MoD pension. It considered Mr Y ought to have been aware that the first pension had been cancelled and question the statements that he continued to receive.
21. Additionally MyCSP explained the statements for the MoD pension showed that following the aggregation his total service had increased by significantly more than it ought to have. This should have prompted Mr Y to query the statements. Due to the procedural delays up to that date MyCSP offered Mr Y £250 which was accepted.
22. Mr Y appealed that decision. He argued:-
 - It was not reasonable for him to have detected Capita's mistake.
 - He was aware of the aggregation, but was not aware that this would mean he would not be entitled to any other civil service pension.
 - The two statements were not contradictory.
 - The letters referred to by MyCSP were seven years old.
 - He had purchased added years and assumed the Capita statements referred to those benefits.
 - Responsibility for calculating his benefits fell to Capita and MyCSP, not him. It was reasonable for him to think it was being calculated correctly. He should not be required to audit its correspondence.
 - He should receive compensation that reflects the impact of Capita's error.
23. The Cabinet Office issued the stage 2 response on 20 July 2015. It accepted that "anything that could go wrong with Mr Y's case did go wrong". The first pension should have been cancelled, but this did not happen. There had been delays when Capita's work had been transferred to MyCSP in September 2014 and MoD had incorrectly recorded Mr Y's service.
24. However, the Cabinet Office considered that there was reason for Mr Y to have noticed the error sooner. Mr Y had been aware that the first pension should have

been cancelled, and should have noticed that he had not completed 36 years' service. It highlighted the warnings on the statements that the member should check that the information was correct. The onus was on Mr Y to check the statements.

25. The Cabinet Office conceded that the information now being provided to Mr Y would be frustrating and unpleasant, but he was only entitled to the correct benefits. In relation to the request for additional compensation the Cabinet Office considered that this cost should be borne by the MoD and Cabinet Office directed it pay Mr Y £500. MyCSP should pay a further £250.
26. Dissatisfied with this response, Mr Y referred the complaint to this Office for independent review.

Adjudicator's Opinion

27. Mr Y's complaint was considered by one of our Adjudicators who concluded that no further action was required by MyCSP. The Adjudicator's findings are summarised briefly below:-
 - The complaint centres on whether Mr Y acted in detrimental reliance on the incorrect statements and whether the award for the distress and inconvenience suffered was appropriate.
 - The Adjudicator did not think that it was reasonable for Mr Y to rely on the statements he received which suggested he had retained benefits in the MCSSS pension. Mr Y ought to have been aware that all the benefits in that scheme had been extinguished on aggregation with the PCSPS as the documentation was clear on this point.
 - In relation to the post aggregation PCSPS, the Adjudicator considered that the scale of the inflated pension communicated to Mr Y was such that given his knowledge of his employment history he ought to have been aware that he could not possibly have had 27 years' service to transfer to the PCSPS. It was not reasonable for him to have relied upon the incorrect information and he should have made clear to MyCSP that it could not have been correct. The argument for detrimental reliance was not successful because there was insufficient reason for Mr Y to rely on the information
 - However, although the Adjudicator thought Mr Y ought to have recognised the error, he considered Mr Y had acted in good faith. As a result of the error a significant loss of expectation had been suffered by Mr Y. In the circumstances the offer of £1,000 for the distress and inconvenience caused was appropriate.
28. 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. I agree with the Adjudicator's Opinion, summarised above, and I will therefore only respond to the key points made by Mr Y for completeness.

Ombudsman's decision

29. Mr Y has accepted that it was not reasonable for him to rely upon the statements received in relation to MCSSS, but considers the circumstances surrounding the PCSPS show that it was reasonable for him to rely upon what he was told and did so to his detriment. In particular he highlights a phone call he made where it appears he was told the difference was due to the Added Years he had accrued.
30. He also highlights a diagnosed memory condition as affecting his ability to recall the full circumstances of his pension and the fact that it took until 2015 for MyCSP to identify the error. If it was that challenging for pension administrators to recognise the error then how could he be expected to notice it, and why should he challenge the experts when they offer rational explanations. Mr Y says he checked the statements he received, but he had not audited them or checked the records from year to year.
31. In my view the complaint centres on what happened in 2007, and the information Mr Y received at that time. He was informed that he had 27 years' service in the MCSSS, when his actual service was only just over 14 years. I am not persuaded that it was reasonable for Mr Y to have thought this situation was correct.
32. Mr Y highlights a call he made to MyCSP in 2007, where it appears he queried this figure and was apparently told this increase was due to Added Years. I do not doubt that Mr Y may have been told that it was or could be due to Added Years. But, even if the maximum Added Years had been included, it does not account for the full 27 years communicated to him, and there was no reason for Mr Y to think that he had become entitled to the full Added Years when he left his role at the MPS.
33. I also appreciate Mr Y may have trouble with his memory, but there is no suggestion that it was so significant that in 2007 he could not have recalled his approximate employment history, which is the key issue.
34. I appreciate pensions are not straightforward and misunderstandings can arise, but underlying this is Mr Y's knowledge of his employment history. Given the scale of the discrepancy it was not unreasonable for him, in my view, to know that the 2007 figure was wrong. Even with the suggestion that this was due to Added Years being included in the transfer, I consider Mr Y ought to have sought greater reassurances before relying on the figure. In my view, where there is such a clear discrepancy I think it is reasonable Mr Y to request the situation be clarified in writing. Without this I do not think it was reasonable for Mr Y to have relied on a statement that was so obviously wrong.

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35. However, MyCSP has made an error which was a significant loss of expectation and therefore a distress and inconvenience award is warranted. The Cabinet Office has already offered £1,000 in total, which in the circumstances is appropriate and should be accepted by Mr Y.
36. Therefore, I do not uphold Mr Y's complaint.

Anthony Arter

Pensions Ombudsman
7 June 2017