

Ombudsman's Determination

Applicant	Mrs L
Scheme	Police Pension Scheme (the Scheme)
Respondent	Metropolitan Police (MP)

Outcome

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

Complaint summary

3. Mrs L's complaint is that she believed she was making contributions to an additional voluntary contribution (**AVC**) plan from 1994, but MP has said these were in fact contributions towards additional widower's pension benefits.

Background information, including submissions from the parties

4. Mrs L has said the widower's benefits would have only been relevant to married female officers. She says she was not married at the time and had no prospects of being married in the near future, so would not have paid for an additional pension nobody would receive. She recalls being told at the time that female officers would receive a lower pension than their male counterparts, so could top up their pension benefits through AVCs.
5. MP discovered that Mrs L had paid over the maximum level towards the widower's pension, so it refunded five years' of contributions. Mrs L argues that this is mismanagement, and supports her claim that the contributions were not for a widower's pension.
6. MP has made the following points in its argument that Mrs L was contributing towards an additional widower's pension:-
 - Mrs L's contributions commenced in July 1994, one month after the deadline for applications for the widower's pension.

- The widower's pension contribution amount was calculated as 0.09% of pensionable pay for each year of pensionable service prior to 17 May 1990. Mrs L's starting contribution amount in 1994 was £12.93, which fits with this calculation.
- The contribution figures towards AVCs were a set financial value, such as £10, £50 or £100, and not a percentage figure like the contribution amount Mrs L was paying.
- The Scheme administrator issued annual benefit statements to those members in the AVC portion of the Scheme, but Mrs L was sent no such statements.
- There is no record of an application form from Mrs L, for additional widower's pension or for AVCs.
- Mrs L's name and warrant number are on the control list of female officers who applied to pay contributions towards additional widower's benefits.
- Mrs L was married on 26 April 1995, less than a year after the contributions commenced, so it is reasonable to conclude that in 1994 she was interested in improving the potential widower's pension payable for her future husband.
- The additional contributions paid by Mrs L have significantly increased the potential widower's pension for her spouse, should she predecease him, from £15,517 per annum to £22,212 per annum.
- The refund of contributions was paid to Mrs L in December 2011, and represented the contributions paid in excess of 25 years pensionable service, which was the required end date for contributions towards the widower's pension.

Adjudicator's Opinion

7. Mrs L's complaint was considered by one of our Adjudicators who concluded that no further action was required by MP. The Adjudicator's findings are summarised briefly below:-
 - Whilst the evidence available was limited, the facts supported the claim that Mrs L had purchased additional widower's pension benefits.
 - Given that Mrs L was married 10 months after the application, it was reasonable to suggest that she wished to purchase additional widower's pension.
8. Mrs L did not accept the Adjudicator's Opinion and the complaint was passed to me to consider. Mrs L provided her further comments which do not change the outcome. I agree with the Adjudicator's Opinion and I will therefore only respond to the key points made by Mrs L for completeness. Mrs L's comments are summarised below:-

- MP has a legal duty to retain paperwork, but has instead destroyed her documents, so the onus of proof is on MP.
- If MP can destroy her documents then it could have mismanaged her application for AVCs.
- The benefit of doubt has been applied over-generously in favour of MP.
- The Adjudicator placed too much weight on the level of contributions taken.
- Mrs L was not married at the time, so it is perverse to suggest that she was making plans for her future husband.
- Mrs L's husband had a more dangerous role with the police force at the time, so would have been at higher risk than her.
- The contributions on her payslip refer to an additional benefit she was making to her pension as an enhancement.
- None of the personnel in 2012 knew that Mrs L was contributing to the widower's benefit.

Ombudsman's decision

9. Mrs L's name, albeit her maiden name, and her warrant number are on a list of names of female officers who applied to pay extra contributions to purchase additional widower's benefits. I have seen this list, which is strong evidence that supports MP's claim.
10. I note that MP does not hold any other paperwork, however it is only required to do so for 7 years. Given that the application was in 1994, it is not required to hold documentation on file any longer. I also note that Mrs L does not hold any paperwork from the time of the application.
11. The fact that the contribution amount taken from Mrs L each month matches the percentage amount for widower's benefits is also strong evidence. If Mrs L believed she had filled in an application for AVCs she would have selected a whole amount to pay, such as £10. She would then have been able to recognise that this was not the amount taken each month in her payslip and would have challenged this at the time. I therefore find it more likely than not that she did not complete an AVC application.
12. Mrs L has argued that her husband's job puts him at a higher risk than her. However this doesn't mean that she would not want to protect her husband's income in the event that she predeceased him.

PO-11327

13. I appreciate that there is limited evidence available, however the evidence that has been presented shows that Mrs L was made reasonably aware she was purchasing additional widower's benefits. Mrs L has not presented any evidence to confirm that she in fact applied for AVCs.
14. Therefore, I do not uphold Mrs L's complaint.

Karen Johnston

Deputy Pensions Ombudsman
20 December 2017