

## Ombudsman's Determination

Applicant	Mr L
Scheme	Principal Civil Service Pension Scheme ( <b>PCSPS</b> )
Respondents	Cabinet Office and MyCSP

## Outcome

1. I do not uphold Mr L's complaint and no further action is required by the Cabinet Office and MyCSP.

## Complaint summary

2. Mr L has two complaints:
  - He disagrees with the way in which his Widows' Pension Scheme (**WPS**) debt has been calculated; and
  - He disputes that, prior to his retirement, he was provided with an opportunity to pay the outstanding WPS contribution.

## Background information, including submissions from the parties

3. The relevant rules relating to the WPS and the repayment of the debt can be found in the Appendix.
4. Mr L has been a member of the PCSPS since 1971.
5. The Cabinet Office explained in their Stage 2 internal dispute resolution procedure (**IDPR**) decision, the history regarding WPS contributions:

"The introduction of the PCSPS in 1972 wound up the existing WPS arrangements. Widow's pensions increased from one-third of the members' own pension to one-half for service from 1 June 1972. Contributions increased to 1.5% of salary to cover the greater cost. Members had to pay for current service through periodical contributions. Because WPS contributions were paid in arrears before the introduction of the PCSPS, the 1.5% rate came into form on 1 June 1973, and all male members had to pay

additional contributions to clear the arrears that had built up since 1 June 1972.”

6. In 1992, the PCSPS rules were amended so that members could have the period over which they paid contributions reassessed. The Cabinet Office state this was to reflect that not all members would retain 40 years reckonable service to allow the WPS debt to be repaid at age 60. Circulars were sent to employers to pass on information to staff to allow them to make additional contributions. The Cabinet Office provided a copy of the circular sent to the Department for Social Service in 1992, plus an additional circular sent to the Benefits Agency in 1995.
7. In April 2014, Mr L requested a benefit estimate and MyCSP calculated the WPS debt as £919<sup>1</sup>. Mr L raised a complaint under the PCSPS’s IDRP about the way in which the debt had been calculated.
8. Neither MyCSP nor the Cabinet Office upheld Mr L’s complaint under the IDRP. Their response was that the rules of the scheme determine how the contribution is calculated and this had been done in accordance with the relevant rules. The Cabinet Office also note that employers were provided with information to give to employees regarding the option to make up the shortfall before retirement, but Mr L disputes that he was made aware of this at the time.
9. Following this, Mr L complained to my service.

## **Adjudicator’s Opinion**

10. Mr L’s complaint was considered by one of our Adjudicators who concluded that no further action was required by the Cabinet Office or MyCSP. The Adjudicator’s findings are summarised briefly below:
  - Mr L argued that the PCSPS rules do not explicitly state that the WPS debt must be paid using the salary at retirement. The Adjudicator did not agree with this argument on two counts. First, that Rule 4.17 states that the amount deducted is to be based on the lump sum at retirement and this is calculated using his pensionable earnings at retirement. Second, Rule 4.18 provides the specific formula to calculate the shortfall and this includes using the “civil servant’s pensionable earnings.” The view was that, as the calculation can only be done at retirement, then the Cabinet Office and MyCSP are correct to use the pensionable earnings at retirement.
  - In relation to the second part of Mr L’s complaint, the Adjudicator’s view was that the Cabinet Office had provided evidence to show that it made Mr L’s employer aware of the changes. The Adjudicator felt that, as this was the way in which information of this nature was disseminated at the time, the Cabinet Office had met its responsibilities. Mr L has not brought a complaint against his employer

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<sup>1</sup> By 30 March 2015, this was £931.02 as shown on the partial retirement statement issued to Mr L

and therefore no comment could be made on the way in which it chose to share the information.

- The Adjudicator also felt that Mr L had had various opportunities before retirement to question the WPS debt and, had he done so, it would have been likely that he would have been made aware of the option to make additional contributions before retirement.

11. Mr L did not accept the Adjudicator's Opinion and further submitted:

"I have never disputed the fact that there may be a debt, even though I argued that Civil Service Departments and Pension Administrators were less than transparent in my view regarding the mechanics of making up the shortfall or the proposed impact on staff waiting until they retire before making up the shortfall.

I still dispute the rate of recovery and feel that MyCSP et al have just interpreted the regulations as they have simply for their convenience despite that interpretation being far from fair. I have been unable (not surprisingly) to find a comparator in law, perhaps because there isn't one whereby a debt in 1972 (incurred due to failure to collect rather than failure to pay by the "debtor") becomes a debt at 2015 salary and grade.

In any other circumstance eg a debt pursued through the High Court, say, the debt would be the original debt, about £15 in this case, with interest and perhaps inflation added as appropriate, making it about £200 in this case not £932 because that suits the administrator."

12. I have considered these points along with those previously made. I agree with the Adjudicator's Opinion, summarised above, and I will therefore only respond to the key points made by Mr L for completeness.

## **Ombudsman's decision**

13. Mr L has not put forward any new arguments that persuade me that the Cabinet Office and/or MyCSP are acting outside of the PCSPS rules. It seems to me that the complaint hinges on what Mr L believes is fair. He does not consider it fair to take a debt that occurred in 1972 and to repay it at today's rate. While I can identify with Mr L's position, my role is to determine whether the Cabinet Office and/or MyCSP acted outside the rules of the PCSPS when calculating Mr L's WPS debt.
14. As the Adjudicator explained, Rule 4.17 and 4.18 set out how and when the debt is to be calculated and repaid. In calculating the WPS debt at retirement, the Cabinet Office and MyCSP have correctly interpreted the PCSPS rules so I cannot agree that the debt should be calculated in the way in which Mr L requests.

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15. While Mr L might feel that the Cabinet Office and MyCSP have not been transparent in relation to making up the shortfall, I agree with the Adjudicator that the Cabinet Office provided information to Mr L's employer. Mr L's employer is not a party to this complaint, so I must agree that the Cabinet Office met its responsibilities in providing information regarding how to make additional contributions prior to retirement.
16. Therefore, I do not uphold Mr L's complaint.

**Anthony Arter**

Pensions Ombudsman  
25 October 2016

## Appendix

### Principal Civil Service Pension Scheme Section II

#### Section 4: Widows' and dependents' benefits

##### Part 1: Widows' pensions

##### Contributions

- 4.9 A civil servant will, while in service, pay periodical contributions of 1 ½% of salary (or wages) from 1 June 1973 until the end of his pensionable service ...
- 4.10 A civil servant in service on 1 June 1972 who had hitherto been paying periodical contributions of 1 ¼% of salary under Part III of the Superannuation Act 1965 will continue to pay such contributions until 31 May 1973, or (if earlier) until his pensionable service ends.
- 4.11 A civil servant in service on 1 June 1972 may opt to pay contributions and be eligible for benefits at a reduced rate for his reckonable service before that date (see rule 4.18). This option must be exercised before 1 April 1973. In the event of a civil servant failing to make the option, it will be deemed to have been exercised unless he specifically opts to the contrary.
- 4.12 A civil servant may opt to pay additional periodical contributions, in multiples of 1 ½%. This is subject to rules 4.13 and 4.14 ...
- 4.13 Additional periodical contributions under rule 4.12 will be payable from the earliest practicable date of the option, until such time (and not before) as his pensionable service ends or he no longer owes a lump sum contribution under rule 4.18, and in calculating the potential lump sum contribution under rule 4.18 it will be assumed that he continues in service until retiring on age grounds at the pension age, except that,
- (a) the civil servant may opt on or after 17 February 1992, that for the purposes of calculating what additional periodical contributions are payable, no account should be taken of any period during which the civil servant may continue in service between the completion of 40 years' reckonable service and the pension age, and
  - (b) where a civil servant has been paying additional periodical contributions, he may opt on or after 17 February 1992 to have these re calculated by reference to the salary in payment at the time the contributions are made, so as to leave out of account any period during which he may continue in service between the completion of 40 years' reckonable service and the pension age.
- 4.14 (i) Except as provided in (ii) below, an option to pay additional periodical contributions under rule 4.12 must be exercised by 1 April 1973 in the case

of a civil servant in service on 1 June 1972, or during the first none months of service for a civil servant beginning service after that date.

- (ii) In the case of a civil servant in service on 1 August 1984, or whose service begins on or after 1 August 1984, an option to pay additional periodical contributions under rule 4.12 may be exercised at any time after that date and before a retirement award is made under rule 3.1
- (ii) A civil servant in post on or after 20 July 1995 may opt, subject to approval of the Minister, to pay additional periodical contributions under rule 4.12 at any time after that date and before a retirement award is made under rule 3.1, for the purposes of eliminating or reducing any potential lump sum deduction under rule 4.17...

...

- 4.17 (i) To the extent that the contributions due under rules 4.15 and 4.16 have not been paid by periodical contributions, a deduction will be made (subject to paragraph (ii) below) from whichever of the following becomes payable to the extent necessary to clear the balance (whether or not the civil servant is immediately re-employed):

...

(d) the lump sum under rule 3.1;

...

(i) the partial retirement lump sum under rule 3.3b.

- 4.18 The amount to be deducted under rule 4.17 will be  $1 \frac{1}{2}/80$ ths of the civil servant's pensionable earnings multiplied by  $(2A/3+b-C-2D/3)$  where:

- A is the reckonable service (if any) for which reduced contributions under rule 4.11 are due;
- B is the reckonable service for which full contributions are due;
- C is the number of annual periodical contributions of  $1 \frac{1}{2}\%$  of salary which he has paid;
- D is the number of annual periodical contributions of  $1 \frac{1}{4}\%$  of salary which he has paid, including any such contributions paid under Part III of the Superannuation Act 1965.