

Ombudsman's Determination

Applicant	Cdr N
Scheme	Armed Forces Pension Scheme (AFPS)
Respondent	Veterans UK

Outcome

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

Complaint summary

3. Cdr N has complained that he was misinformed that his pension benefits would be higher than they are. He says he made the decision to remain in the Armed Forces Pension Scheme 1975, (**AFPS 75**), and not transfer to the Armed Forces Pension Scheme 2005, (**AFPS 05**) due to the figures provided on his Personal Benefit Statement, (**PBS**), and will now be receiving lower benefits on retirement than he could have done if he had opted to transfer to AFPS 05.

Background information, including submissions from the parties

4. In September 2003, the Offer to Transfer (**OTT**) internal communication process started and the pamphlet, "AFPS75-Your Pension Scheme Explained", was distributed to personnel via unit administration offices.
5. On 20 April 2005, Veterans UK sent Cdr N his PBS, reference 67034, which provided details of his OTT. It stated that he could either leave his existing benefits in the AFPS 75 or transfer them to AFPS 05. The PBS included illustrations estimating the benefits he could receive under each option, using the information available at the time.
6. On 1 August 2005, Veterans UK received a request to update its information relating to Cdr N's paid rank, title entry, daily pay rates and service end date. Veterans UK has said it is unclear from its records whether this updated information originated from Cdr N's unit administration office as a result of a request from Cdr N, but that in its experience this is most likely as the PBS he received mentioned that he should

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contact his unit administration office if he believed any of the information was incorrect.

7. On 16 September 2005, Veterans UK sent Cdr N an updated PBS, reference 176767, which provided the same options as the previous PBS but used the updated information to calculate the illustrations.
8. On 19 September 2005, Cdr N signed and sent back his PBS receipt reference 176767, acknowledging that he had received his PBS and opting to remain in AFPS 75.
9. On 7 July 2015, Veterans UK responded to a request from Cdr N to review his pension, as he thought there was a significant difference in the pension he would have received had he transferred to the AFPS 05. Veterans UK confirmed that the figures quoted on the PBS were a snapshot of his benefits as at 20 April 2005, based on the appropriate Pension Codes for AFPS 75 2005/2006 and pay rates for the calculation of the AFPS 05 pension. It stated the PBS was based on his own unique circumstances and having revisited the figures, as stated on Cdr N's PBS, it confirmed the PBS was correct.
10. On 28 July 2015, Cdr N raised a complaint under the Scheme's internal dispute resolution procedure (**IDRP**). He complained that the information provided on the PBS at the time the OTT was made does not accurately forecast the pension benefits that would be available to him at the time of his projected service end date. He further complained that the percentage variation between the AFPS 75 and AFPS 05 benefits, based on a projected discharge date of 27 January 2017, is significantly different than what it was in 2005.
11. On 16 September 2015, Veterans UK issued its IDRP stage 1 response to Cdr N. It explained that AFPS 05 benefits are calculated on the basis of final pensionable earnings and Cdr N's salary as at April 2005, the date of the OTT, was therefore used. However, AFPS 75 benefits were not earnings related and pension benefits were calculated using Representative Rates of Pay. AFPS 75 benefits were based on final rank and length of reckonable service.
12. Veterans UK stated that the PBS issued to Cdr N was correct and based on his circumstances at that point. The fact that Cdr N chose to remain in the AFPS 75, and now finds that his pay progression has increased, the amount of the AFPS 05 pension, lump sum and early departure payment benefits available to him if he had actually elected to transfer into AFPS 05, is not a justification for revisiting the decision he made in 2005.
13. On 21 October 2015, Cdr N appealed under the IDRP stage 2.
14. On 26 November 2015, Veterans UK reviewed the case under stage 2 of the IDRP. The decision maker did not uphold Cdr N's complaint and held that his case had been administered properly in line with the AFPS rules. She said that the information on Cdr N's PBS was factually correct and it was not possible for it to issue a forecast to

individuals which took into account the many variables that could affect their benefits from the date of the OTT to the end of their engagement. It was for this reason the pensions calculator was provided and it was the AFPS' member's responsibility to make use of this resource.

Adjudicator's Opinion

15. Cdr N's complaint was considered by one of our Adjudicators who concluded that no further action was required by Veterans UK. The Adjudicator's findings are summarised briefly below: -
- Cdr N said that the figures in his PBS 2005 did not accurately reflect the benefits he would be entitled to at the end of his commission. He further said upon taking his pension he would receive 11% less than he could otherwise have received. The PBS did not show any significant difference between the two pension schemes and he was not aware that he could receive 11% more if he had elected to change to the AFPS 05.
 - Veterans UK had provided evidence which led the Adjudicator to conclude that the difference between the two schemes was clearly explained to members. Veterans UK had sent the OTT booklet, and on pages 6 and 7 there was a table showing a direct comparison between the two schemes. Contained within the foreword of the booklet scheme members were advised that a pension calculator had been developed to allow them to do "what if" estimates based on how they saw their career developing. Further, paragraph 3 on page 9, again reminded members that the PBS is based on information as at April 2005 and that they might wish to use the pension calculator for "what if" scenarios.
 - Page 4 of the OTT booklet showed that the information contained on members PBS's was taken from their personnel records on the day that the comparison was calculated, April 2005, and on page 5 it stated that, "you may wish to consider different career options which will affect your future pension entitlements. For example, you might expect to be promoted or want to extend in service or consider the impact of pay increments. A pension calculator is available...."
 - The Adjudicator sympathised with Cdr N that his overall pension benefits under the AFPS 05 would have been considerably higher than those that are likely to be provided from the AFPS 75. However, she was of the opinion that the difference in the AFPS 75 and AFPS 05 was due to factors concerning his career, pay, etc., that were unknown at the time of the OTT. The OTT booklet contained all the relevant information about the two schemes. In addition, the pension's calculator was made available to members to calculate the changes that increases in pay would have on their entitlement.

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16. Cdr N did not accept the Adjudicator's Opinion and the complaint was passed to me to consider. Cdr N provided his 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 Cdr N for completeness.

Ombudsman's decision

17. Cdr N contends that the PBS stated it is a forecast and disagrees with Veterans UK claim that the PBS was a snapshot. However, the PBS in question says, "it uses the best information available which is held on your Pay and Record of Service on 20 April 2005, including your rank, basic rate of pay, reckonable service and commission or engagement". Therefore, the PBS adequately explains that it does not take into account any future changes which alter the benefits payable from either scheme in a positive or negative way.
18. Cdr N suggests the PBS he signed was incorrect by a margin of 11% compared to the benefits that have actually accrued. I am satisfied that the differences between the figures shown in the PBS and the figures that would be available now are due to factors that were unknown at the point the PBS' was issued.
19. Cdr N has also said that the information the September 2005 PBS was based on is incorrect. However, Veterans UK has confirmed that both PBS's were correct at the time they were issued, as they were based on the most up to date information it held at that stage. The first being based on information held at 20 April 2005, the second being issued following the request to update Cdr N's information on 1 August 2005. Cdr N's paid rank, title entry, daily pay rates and service end date were updated which resulted in different estimates. The PBS's and accompanying booklet asked members to contact their unit administration offices if any information was incorrect. Cdr N appears to have done this for the first PBS, which is why the second PBS was issued. If the information contained in the second PBS was incorrect, I would have expected Cdr N to have queried this at the time.
20. I note that the September 2005 PBS states that it used Cdr N's Pay and Record of Service on 20 April 2005. However, it is clear, and Veterans UK has confirmed, that it is actually based on the updated information provided on 1 August 2005. Therefore, it was correct at the point it was issued, using the most up to date information available as provided on 1 August 2005.
21. Cdr N says that had he received the correct figures in his PBS he would have decided to transfer to the AFPS 05. From the evidence I have seen, there is nothing to indicate that the calculations provided by Veterans UK were based on incorrect assumptions, and as explained by the Adjudicator, each PBS accurately reflected Cdr N's salary and service at the time they were calculated. As such I do not find that there has been an administrative error by Veterans UK.

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22. It was the responsibility of Cdr N to have fully investigated the options of both the AFPS 75 and the AFPS 05, before making his decision to remain in AFPS 75. I find that sufficient information was provided about both schemes to enable Cdr N to decide which scheme was appropriate for him. Therefore, I do not uphold Cdr N's complaint.

Anthony Arter

Pensions Ombudsman
5 June 2018