

Ombudsman's Determination

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

Outcome

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

Complaint summary

3. Mr I has complained that MyCSP and the Cabinet Office are not allowing him a refund of contributions for his second period of employment.

Background information, including submissions from the parties

4. The PCSPS has three different sections. Membership of each section depends upon when a member joined the civil service. The two elements that are relevant to this complaint are the 1972 section known as Classic and the 2007 section known as Nuvos.
5. Mr I was a member of the PCSPS from 3 June 1994 to 3 February 2012, at this point he was a member of the Classic section. When he left employment in February 2013 his benefits became deferred.
6. In October 2013, Mr I started a new role within the civil service and again became eligible to be a member of the PCSPS. He was un-able to re-join the Classic section and so he completed the Pension Choices form on 2 December 2013, to confirm he wanted to join the Nuvos section of the PCSPS.
7. No further action was taken until 24 September 2015, when Mr I knew his employment was going to terminate.

He began making enquiries about whether he could receive a refund for the contributions paid in relation to his second period of employment. He said his understanding was that as he had less than two years' service in the Nuvos section of the PCSPS, he should be eligible to have a refund of the contributions paid during that period of service.

8. On 30 September 2015, Mr I's employer wrote to him and said if a person leaves with more than three months and less than two years' of pensionable service they were able to choose to have a refund, or apply to transfer the notional benefits to another pension scheme.
9. Mr I responded and said he wanted to stop making any contributions into the Nuvos section of the PCSPS, because he wanted to receive a refund of the two years contributions he had built up under that section. He then left employment on 30 November 2015, and his benefits became deferred.
10. All the relevant paperwork to receive a refund was completed. However, MyCSP wrote to Mr I and said that because he had previous service under the Classic section of the PCSPS his total service was over two years'. So, he could not receive a refund of contributions. Therefore, the contributions paid into the Nuvos section of the PCSPS would act as an enhancement to his benefits under the Classic section.

Adjudicator's Opinion

11. Mr I's complaint was considered by one of our Adjudicators who concluded that no further action was required by MyCSP and the Cabinet Office. The Adjudicator's findings are summarised briefly below:
 - MyCSP and the Cabinet Office have not done anything wrong in not allowing Mr I to take a refund of contributions for his second period of employment. MyCSP and the Cabinet Office are bound by the Scheme Rules which follow the legislation laid down in The Pension Schemes Act 1993 (**the Act**), shown in the appendix below. The legislation is laid down by the Government which must be adhered to by all pension schemes. Mr I does not meet the criteria to be eligible for a refund.
 - To be eligible for a refund Mr I needed to pay contributions into the PCSPS for more than three months and less than two years throughout his entire service. As he paid into the PCSPS from 1994 to 2012 and then from 2013 to 2015 this clearly was in excess of two years.
 - Although, the benefits from the Nuvos section will be relatively small, as the period of employment in that section was short, Mr I's overall income will nonetheless be enhanced when he reaches retirement age. If Mr I does not wish to keep his benefits within the PCSPS, he has the option to transfer to another scheme as long as it meets the requirements under the PCSPS rules.

12. Mr I did not accept the Adjudicator's Opinion and the complaint was passed to me to consider. Mr I 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 I for completeness.
13. MyCSP and the Cabinet Office accepted the Adjudicator's opinion.

Ombudsman's decision

14. Mr I believes it is unfair that he has to keep a small amount of pension tied up in the PCSPS against his wishes. He considers that it will never provide a useful benefit. He says it would be logical for the Cabinet Office and MyCSP to issue a refund instead.
15. Section D.9 of the Nuvos section of the Scheme Rules sets out when repayments of contributions may be paid. Reference is made to section 101AA of the Act, which says a member may receive a refund if they have completed three months' service but do not have the relevant accrued rights to receive benefits under the scheme.
16. The Act goes on to explain, under section 71, that if a member has qualifying service of more than two years' pensionable service, whether it be in a single period of service or more than one period, he will be entitled to a short-service benefit. When Mr I joined the Nuvos section of the PCSPS, he already held over two years' pensionable service, due to his first period of service under the Classic section of the PCSPS. So, he is not eligible for a refund for his second period of service.
17. Mr I has said he would be ill advised to transfer such a small pension pot to another pension scheme. That is for Mr I to decide but the fact remains that although he had a break in his civil service employment which resulted in him joining the Nuvos section of the PCSPS, it is the combined service in the PCSPS that is taken in to account, they cannot be treated as separate for these purposes. Consequently, he is not permitted to take a refund of the contributions he paid during his second period of employment.
18. Although, it may seem illogical to Mr I that he cannot have a refund of the contributions I do not consider that MyCSP or the Cabinet Office have acted incorrectly. MyCSP and the Cabinet Office are not allowed to override the Scheme Rules and I cannot find that either party have done anything wrong in refusing to issue the refund.
19. Therefore, I do not uphold Mr I's complaint.

Anthony Arter

Pensions Ombudsman
30 November 2016

Appendix

Refund of contributions – Nuvos sections PCSPS

D.9 Repayment of contributions

(1) The contributions made by a member under this Part are not repayable in any circumstances except if –

(a) paragraph (2) applies, or

(b) Chapter 5 of Part 4 of the Pension Schemes Act 1993 (early leavers: cash transfer sums and contribution refunds) applies and the payment is made in accordance with that Chapter.

The Pension Schemes Act 1993

101AA Scope of Chapter 5

(1) This Chapter applies to any member of an occupational pension scheme to which Chapter 1 applies (see section 69(3)) if-

(a) his pensionable service terminates before he attains normal pension age, and

(b) on the date on which his pensionable service terminates-

(i) the three month condition is satisfied, but

(ii) he does not have relevant accrued rights to benefit under the scheme.

71 Basic principle as to short service benefit

(7) In subsection (1) "2 years' qualifying service" means 2 years (whether a single period of that duration or two or more periods, continuous or discontinuous, totalling 2 years) in which the member was at all times employed either-

(a) in pensionable service under the scheme; or

(b) in service in employment which was contracted-out by reference to the scheme; or

(c) in linked qualifying service under another scheme.

