

Ombudsman's Determination

Applicant	Ms N
Scheme	Principal Civil Service Pension Scheme
Respondents	The Cabinet Office MyCSP

Outcome

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

Complaint summary

3. Ms N's complaint concerns misleading information she says she was given by MyCSP and The British Council (**her employer**). Ms N says that she was told her transfer value would be equal to her employer and employee contributions. However, when she received her transfer value, she found it was significantly less than the contributions made.

Background information, including submissions from the parties

4. In January 2014, Ms N joined her employer on a fixed term contract. She opted to join the nuvos section of the Scheme, she was later transferred to the alpha section on 1 April 2015. This is a defined benefit scheme.
5. In August 2015, Ms N left her position with her employer. As she left before she had accrued two years' service, she did not qualify for a pension with the Scheme. Her options were to either have a refund of contributions or to transfer her pension.
6. In November 2015, Ms N received a transfer quotation with a transfer value of £18,733.67. In December 2015, she received a further quotation with a revised transfer value of £19,013.68. This also included the actuarial figures used to calculate her transfer value.

7. On 7 January 2016, Ms N complained to MyCSP and her employer about her transfer value, claiming that she was told by her employer that it would be equivalent to her employee and employer contributions, which she calculated to be £32,930.22.
8. In March 2016, Ms N formally invoked the Scheme's Internal Dispute Resolution Procedure (**IDRP**). She repeated her assertion that her transfer value would be equivalent to her employer and employee contributions, and that she had received no guidance as to how her transfer value was calculated. Ms N said that as she was on a fixed term contract she knew it was highly unlikely that she was ever going to be eligible for a preserved pension, therefore the size of her employer and employee contributions was a significant factor in her decision to join her employer on a lower salary. Ms N also said she had accrued a pension of approximately £2,500 per year, and on the open market it would cost her £45,000; her current transfer value of £19,013.68 only buys her a pension of £900 per year.
9. In April 2016, Ms N received the IDRP stage 1 decision from MyCSP. In summary, it stated that Ms N's transfer value had been calculated in accordance with the Scheme Regulations. It explained that the pension contributions made by both her and her employer are not directly related to her transfer value. The decision also stated that there was no evidence to show Ms N had been told by her employer or MyCSP that her transfer value would be equal to her employer and employee contributions, nor was there any evidence to show that she had enquired about how her transfer value would be calculated.
10. Ms N appealed the IDRP stage 1 decision. Amongst other things, she highlighted that the pension booklet she had received did not explain why a member's transfer value could be less than the paid pension Scheme contributions, and she was not satisfied that her transfer value had been calculated correctly. Ms N also argued that at no point was she made aware that if she transferred from another pension provider, then she could have qualified for a pension with the Scheme.
11. In September 2016 the Cabinet Office issued its IDRP stage 2 decision. It explained that Ms N's transfer value is based on the actuarial value of the notional pension benefits a member has built up in the Scheme. If a member leaves the Scheme relatively early, it is likely that their benefits will be less than employer and employee contributions. But as a member approaches pension age, their benefits will likely be greater than these contributions. The decision also stated that there was no evidence to show that Ms N was told her transfer value would equal her employer and employee contributions, and that the pension's booklet clearly explains that any period of service transferred from another pension scheme counts towards the two year requirement to qualify for a pension with the Scheme.
12. Ms N also complained to the Government Actuary's Department (**GAD**) that her transfer value has been calculated incorrectly. GAD provided a lengthy response to Ms N which, in summary, explained how her transfer value had been calculated and that it had been calculated correctly.

Adjudicator's Opinion

13. Ms N's complaint was considered by one of our Adjudicators who concluded that no further action was required by the Cabinet Office. The Adjudicator's findings are summarised briefly below:-
- There was no evidence to show that Ms N had been told by either her employer or MyCSP that her transfer value would be equivalent to her employer and employee contributions.
 - Even if there was evidence to support Ms N's claim, this would always be subject to the Scheme Regulations. In which case, Ms N would have to raise a separate complaint against her employer about the misinformation it gave, as employment issues fall outside the jurisdiction of the Ombudsman.
 - The Adjudicator did not believe that Ms N's argument about her transfer value buying her a smaller pension was valid. It was likely that Ms N got this quote from a defined contribution scheme, which is entirely different to the transfer value from her defined benefit scheme. Therefore, the two pension values cannot be compared.
 - It was the Adjudicator's opinion that no maladministration had occurred on the part of the Cabinet Office. The Scheme rules do not allow for Ms N to have a deferred pension, and there was no evidence to suggest that Ms N's transfer value had been calculated incorrectly.
 - Ms N's argument that she would have negotiated for a higher salary had she known her transfer value would be lower than her employer and employee contributions was again an employment issue, which falls outside of the Ombudsman's jurisdiction.
 - The Adjudicator believed that Ms N had been provided with sufficient information from GAD and MyCSP regarding her transfer value.
14. Ms N did not accept the Adjudicator's Opinion and the complaint was passed to me to consider. Ms N 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 Ms N for completeness.
15. The reasons why Ms N did not agree with the Adjudicator are set out below:-
- Ms N felt that the Adjudicator's Opinion was overly narrow. Specifically, the Adjudicator did not address what was, in her view, misleading information given by MyCSP in her pension's booklet. She has quoted a piece of guidance from The Pensions Regulator's (TPR) website which states that when calculating a Cash Equivalent Transfer Value, this can be "a method based on a best estimate of the expected cost of providing the member's benefits in scheme". Therefore, it is Ms N's belief that as the pension booklet states that

the average cost an employer will pay towards an employee's pension is 18.9% to 19.4%, then taking into account the above guidance by TPR, her transfer value and employer contributions are linked.

- Despite repeated requests, Ms N has not received transparent workings to ascertain whether or not her transfer value of £19,013.68 had been calculated correctly.
- Ms N has provided a quotation from another pension's provider which states that a fund value of £22,955.69 would only result in an annual pension of £1,030 upon retirement. This is less than the £2,500 yearly pension she would have got under the Scheme.
- Ms N says that had she known that her transfer value would not be equivalent to employer and employee contributions, then she would have transferred in from another pension's provider to ensure that she would have been eligible for a pension with the Scheme. Ms N says that she has been denied the opportunity to make an informed decision with regard to the benefits of transferring into the Scheme from another provider.
- Ms N has referenced the previous determination of Milne vs GAD, PO-1327. Ms N says the purpose of highlighting this case is to demonstrate that just because GAD and MyCSP have said her transfer value has been calculated correctly, it is not safe to assume that this is correct.
- She has not been provided with an annual statement, which may have highlighted the issue earlier.

Ombudsman's decision

16. The employer's contributing costs towards an employee's pension and the cost mentioned in TPR's guidance are not one and the same. The costs referred to by TPR is the cost a pension scheme incurs when paying a member's benefits. This cost is different to the employer's cost mentioned by MyCSP in its pension's booklet, which is the average amount an employer will contribute towards the Scheme whilst a member is in active service. With all due respect to Ms N, I do not believe that she has interpreted this correctly. I do not find that MyCSP have omitted any key information concerning employer contributions, or stated anything that could be misleading. The statement from the pension's booklet regarding the 18.9%-19.4% contribution rate is correct. Ms N had the choice to query this at the time, however she has produced no evidence to show that she did.
17. Ms N has not provided any evidence to show that she was told by either her employer or MyCSP that her employer and employee contributions would equal her transfer value. Therefore, I do not find that any misrepresentation has been made in this respect.

18. Ms N has raised a number of points on why she believes her transfer value has been incorrectly calculated. Ms N has been sent the actuarial values used to calculate her transfer value, which would have been provided by GAD. It is not my role to challenge actuarial values calculated by GAD simply on the basis that Ms N believes that her transfer value has been calculated incorrectly. Ms N has not provided any evidence to suggest that the actuarial values, which were sent to her in December 2015, and used to calculate her transfer value are incorrect.
19. I note that Ms N has raised the case of Milne vs GAD, PO-1327. However, the case of Mr Milne was to do with GAD providing up to date actuarial tables to Fire Fighters Pensions. This has no relevance to Ms N's complaint.
20. I do not agree that Ms N has been deprived of the opportunity of transferring in from another scheme. The pension's booklet clearly explains that any period of service transferred from another pension scheme counts towards the two year qualifying requirement. Ms N should have been reasonably aware of this option.
21. Ms N argues that she has never received an annual statement from the Scheme, and that if she had received one it would have alerted her to the issue sooner. The Cabinet Office has said that Ms N was due to receive an annual statement in 2015, but she left pensionable service before these were sent.
22. Therefore, I do not uphold Ms N's complaint.

Anthony Arter

Pensions Ombudsman
23 August 2017