

Ombudsman's Determination

Applicant	Mr T
Scheme	Principal Civil Service Pension Scheme (CSPS) / Widow's Pension Scheme (WPS)
Respondents	Cabinet Office (CO), My Civil Service Pensions (MyCSP), HM Revenue & Customs (HMRC)

Outcome

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

Complaint summary

3. Mr T has complained that MyCSP and HMRC made several errors with the calculations of his pension benefits, causing him to suffer distress and inconvenience.

Background information, including submissions from the parties

4. Mr T started working at the General Post Office (**GPO**) on 5 February 1968 and was enrolled into the CSPS. The GPO became a public corporation on 1 October 1969. At this time, Mr T came out of the CSPS and joined the GPO pension scheme.
5. Mr T left the GPO on 7 February 1975 and started working at the then HM Customs & Excise (now HMRC). At this point, he became a member of the CSPS (1972 section). The benefits he had built up in the GPO scheme were transferred into the CSPS. HM Customs & Excise told him he was covered for a half rate Widow's pension.
6. Despite never having married, Mr T paid an additional £3,019 of WPS contributions into the CSPS from March 1997 up until October 2003 (**the additional WPS contributions**). His objective was to cover any shortfall of contributions in the event that he retired before his Normal Retirement Age (**NRA**) of 60.
7. Mr T went into partial retirement in June 2010 and took full retirement in August 2015, remaining unmarried throughout this period. This meant he was entitled, under the CSPS rules (1972 section), to a refund of the additional WPS contributions. HMRC

applied a “premium deduction” to this refund, which it paid to Mr T as part of his Pension Commencement Lump Sum (**PCLS**).

8. Mr T submitted a complaint to MyCSP in early 2016, under stage 1 of the internal dispute resolution procedure (**IDRP**) of the CSPA. He argued that the premium deduction made to the refund of the additional WPS contributions was unfair, given he was unlikely to get married after his NRA. He also complained that the additional WPS contributions should have been refunded by HMRC by way of a salary adjustment, but HMRC had made the refund as part of the PCLS instead.
9. In its letter dated 6 May 2016, MyCSP responded that it had to apply the CSPA rules. Since the CSPA rules (1972 section) say a premium deduction is applied to refunds of the additional WPS contributions, it had to make this reduction. With respect to Mr T’s second complaint, MyCSP pointed to an employers’ guide which said that, from 2006 onwards, refunds of the additional WPS contributions had to be included within the PCLS and not repaid through a salary adjustment.
10. Dissatisfied with this decision, Mr T referred the complaint to the CO on 8 October 2016 by invoking stage 2 of the IDRP of the CSPA. He noted that the booklet, “Superannuation Act 1949 Guide to the Widows’, Childrens’ and Dependants’ Pension Scheme”, said the additional WPS contributions should be refunded by way of a salary adjustment. Whilst he accepted that refunds of any additional WPS contributions paid by members from 2006 onwards would be included with the PCLS, he maintained that additional WPS contributions made before then should be refunded by way of a salary adjustment.
11. Mr T further complained that, as a lifelong bachelor, he should not be subject to the premium deduction which was applied to the additional WPS contributions, as he is unlikely to marry, having already reached NRA. Mr T also reflected that the relatively small premium deduction of £3,119.21 was insufficient to cover all of the CSPA annual Widow’s and Widower’s pensions of £10,396.69 which the Scheme would be obliged to cover. Additionally that, as a retired member, he should have had the option of whether to accept or reject the refund of the additional contributions. If he rejected it, and he remained single at the time of his death, these contributions could then be returned to his Estate.
12. Mr T made the following additional points:-
 - The “Final after Partial Retirement Quotation”, which MyCSP sent him on 17 August 2015, showed only £1,112.78 interest on the additional WPS contributions he made between March 1997 and October 2003. This departed substantially from his own calculations, using the Average Building Societies Share rate. It was only when he brought this to MyCSP’s attention that he obtained a revised quotation detailing interest of £9,508.64.

- It was necessary for him to further challenge MyCSP's calculations, and on 22 October 2015, it wrote to him to tell him that a further sum of £273.40 was payable to him, due to the PCLS having been calculated incorrectly. Moreover, that he was due £7.71 in respect of arrears on his increased pension.
 - Following further enquiries, MyCSP inversely commuted an additional £87.83 and added this sum to his pension on 16 November 2015.
13. MyCSP had sight of this complaint letter and accepted that Mr T should have received the refund of the additional WPS contributions by way of a salary adjustment rather than as part of the PCLS. MyCSP therefore instructed HMRC to process the refund this way, subject to Mr T repaying the £1,389.89 refund of the additional WPS contributions which HMRC had previously made as part of the PCLS.
14. MyCSP also acknowledged that there had been shortcomings with its service which had caused Mr T distress and inconvenience and wrote to him on 9 January 2017 to offer him compensation of £500 in recognition of this.
15. The CO issued the stage 2 IDRP decision on 27 February 2017, making the following points:-
- Whilst there were shortcomings with the service MyCSP provided to Mr T, the £500 compensation offered to him in acknowledgment of the resulting distress and inconvenience caused to him was sufficient.
 - The Social Security Act 1978 obliges the CSPA to provide a Widow's or Widower's pension; irrespective of the date of marriage or civil partnership. The CSPA rules (1972 section) require members to share this responsibility by way of an insurance-type premium deduction from the refund of any additional WPS contributions made. As with most forms of insurance, this premium is not refundable in cases where the circumstances it is intended to cover do not arise.
16. Mr T also made the following separate complaints to HMRC:-
- It had refunded his additional WPS contributions as part of his PCLS rather than by way of a salary adjustment.
 - When it refunded the additional WPS contributions by way of a salary adjustment, it did not pay any interest and consequently underpaid him by £1,338.71, as well as deducting £74.56 too much tax. He had to query this with HMRC several times before it was put right.
17. In response, HMRC apologised to Mr T for its maladministration and said it was prepared to compensate him for the costs he incurred contacting it about its errors.

Adjudicator's Opinion

18. Mr T's complaint was considered by one of our Adjudicators who concluded that no further action was required by the CO, MyCSP or HMRC. The Adjudicator's findings are summarised briefly below:-
- HMRC had offered to compensate Mr T for the costs he incurred contacting it to put right the errors he identified. This would remove the financial loss caused by HMRC's maladministration and, as such, was an acceptable offer.
 - MyCSP's offer to pay Mr T £500 for the distress and inconvenience caused by its maladministration constituted significant compensation and was sufficient in the circumstances.
19. Mr T did not accept the Adjudicator's Opinion and the complaint was passed to me to consider. Mr T 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 T for completeness. In summary, these are:-
- He said there were some factual inaccuracies in the Opinion. The first was made in point 9 of the letter, where the Adjudicator said he had complained that all of the WPS contributions he paid into the Scheme should have been refunded by way of a salary adjustment and not as part of the PCLS. Mr T explained that he had only stated that the additional WPS contributions should be subject to a refund through salary adjustment.
 - Mr T also referred to point 11 of the Opinion, where the Adjudicator said he had mentioned that the employers' booklet, "Superannuation Act 1949 Guide to the Widows', Childrens' and Dependents' Pension Scheme", instructed employers that all of the WPS contributions would be refunded through a salary adjustment. He said this is incorrect, as he was discussing only the additional WPS contributions.
 - The final factually incorrect statement Mr T identified is the Adjudicator's statement in point 13 of the Opinion that he had argued that MyCSP should have given him the choice of making WPS contributions. He says he had not made this case; he had only said he considers it unfair to all parties that a "premium deduction" should be made on the basis that he may marry later in life, which he judged to be highly unlikely after NRA. Also, that the relatively small premium deduction of £3,119.21 was insufficient to cover all of the CSPS annual Widow's and Widower's pensions of £10,396.69 which the Scheme could be obliged to cover.
 - The £500 compensation awarded to him by MyCSP is in relation to that organisation's maladministration only. It does not provide recompense for the significant errors made by HMRC.

- Whilst HMRC offered to compensate him for the costs he incurred contacting it to resolve the issues identified, all correspondence was by email and all his telephone calls are included within his telephone package. As such, HMRC has not made any offer that would actually compensate him for its maladministration.
- The online guide on the gov.uk website, “How do I complain to HMRC?”, under the sub-heading “Can I claim compensation for worry, distress or extra delay?”, says compensation is awarded for distress and inconvenience caused by HMRC’s service. Further, it states that additional compensation is awarded where the complaint has been handled incorrectly.
- If he had not challenged HMRC’s calculations, he would have been left £1,413.27 out of pocket.
- Overall, the Adjudicator’s Opinion does not acknowledge the distress and inconvenience caused to him by HMRC’s maladministration.

Ombudsman’s decision

20. Having reviewed the Opinion, along with the papers submitted by all parties, carefully, I accept that the Adjudicator’s reference to WPS contributions, instead of simply the additional WPS contributions, was factually incorrect. I also recognise that Mr T did not argue MyCSP should have given him the option of declining to make WPS contributions. What he said was that, as a retired member, he should have had the option of whether to accept or reject the refund of the additional contributions, and, if he rejected it, and he remained single at the time of his death, these contributions could then be returned to his Estate. However, these factual inaccuracies do not make a substantive difference to the outcome of the complaint.
21. In support of his argument that HMRC should pay him compensation, Mr T has referred to gov.uk’s online guidance to complaining about HMRC. Having examined that website, I note that this guidance is produced for members of the public who are dissatisfied with how HMRC has administered their tax affairs generally. It has no specific relevance to a pensions administration dispute between HMRC and a current or former employee. For the reasons below I do not consider that it takes his argument any further.
22. It is not contested that there was maladministration by both MyCSP and HMRC. I note that MyCSP paid Mr T £500 to compensate him for the significant distress and inconvenience caused by its maladministration. In his response to the Adjudicator’s Opinion, Mr T did not dispute that this sum is sufficient to compensate him for MyCSP’s failings.
23. Mr T has pointed out that the £500 paid to him by MyCSP was awarded only in respect of the maladministration caused by that organisation, and not HMRC’s failings. I accept that is the case. However, my awards for distress and inconvenience are not intended to be punitive. When determining the appropriate sum to award for

non-financial injustice, my starting point is to ask what distress and/or inconvenience has been caused to the applicant by the maladministration identified. This applies whether the distress and/or inconvenience involved just one organisation, or several.

24. I have to decide whether the £500 which Mr T has already received is sufficient to compensate him for the maladministration about which he has complained. I accept that HMRC's maladministration meant Mr T had to spend time contacting it in order to make sure he received the correct pension benefits. From the papers, I can see that Mr T sent HMRC emails on 26 May, 12 July, 13 July and 3 August 2016 and that he telephoned it on 25 August 2016.
25. However, the £500 compensation MyCSP has already paid to Mr T is a substantial figure. In my judgment, this sum is sufficient to compensate him for the significant distress and inconvenience caused to him overall by the maladministration he identified.
26. Therefore, I do not uphold Mr T's complaint.

Karen Johnston

Deputy Pensions Ombudsman
2 August 2017

Appendix

The Principal Civil Service Pension Scheme rules (1972 Section)

27. Rule 4.14 provided:-

(iii) "A civil servant in post on or after 20 July 1995 may opt, subject to the 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, in respect of any enhancement of reckonable service under rule 3.4(i) or rule 2.2 of the Compensation Scheme (or under former rule 10.4 as set out at Appendix 1 of the Compensation Scheme, or former rule 10.5 as set out at Appendix 2 of the Compensation Scheme). Any excess contribution resulting from the exercise of an option under this rule shall be refunded in the manner provided for in rule 4.19(i)(b) and the additional service to which the excess contribution related shall be disregarded for the purposes of calculating a widow's pension".

28. Rule 4.19 said:-

"Where a civil servant has actually paid periodical contributions in excess of the contributions due under rule 4.15 or, alternatively, where he has actually paid periodical contributions in respect of service prior to 6 April 1978 in excess of the contributions due under rule 4.16(i), a refund will be paid to or in respect of him in accordance with paragraph (ix), made up of the relevant balance — beginning with the last such contribution paid — with compound interest.

(b) Where any additional periodical contribution paid under rule 4.13 results in an excess contribution being paid, that excess contribution will be treated by the employing department as an underpayment of salary.

(ii) Where an unmarried person ceases to be a civil servant on or after 6 April 1978, contributions due under rule 4.16(ii) may be reassessed as if he had died in service on the date that he ceased to be a civil servant:

(a) if at his death his personal representatives request such reassessment, and provided that he has never married since ceasing to be a civil servant; or

(b) if he leaves the Civil Service before 1 August 1984 with a pension under rule 3.1, an ill health pension under rule 3.4 or an annual compensation payment under former rule 10.6 as set out at Appendix 1 of the Compensation Scheme, or if he ceases to be a civil servant on or after 1 August 1984 and on or before 30 November 1989 with such a pension or an annual compensation payment under former section 10 as set out at Appendix 2 of the Compensation Scheme, or with a pension under rule 3.10a or pension under former rules 10.11, 10.12 or 10.26 as set out at Appendix 1 of the

Compensation Scheme or former rules 10.13 or 10.14 as set out at Appendix 2 of the Compensation Scheme and he opts when he leaves for such a reassessment to be made.

If the contributions (taking into account deductions under rule 4.17) paid in respect of service on or after 6 April 1978 exceed the contributions reassessed as due, the civil servant will receive a refund made up of the balance — beginning with the last contribution paid — with compound interest, provided that where an option under paragraph (b) is exercised, the civil servant undertakes to repay the said refund together with compound interest, from which sum on or after 1 August 1984 any tax payment made under (ix) below will be deducted, if he subsequently marries or remarries.

(iii) Where a civil servant leaves the Civil Service on or after 6 April 1978 and is reemployed as a civil servant in circumstances in which his earlier service is reckoned with his reemployed service under rule 3.35, 3.35d, or rules 6.4 or 7.9 of the Compensation Scheme (or former rule 10.24 as set out at Appendix 1 of the Compensation Scheme or former rules 10.26 or 10.35 as set out at Appendix 2 of the Compensation Scheme) then

(a) if a refund under paragraph (i) or (ii) above has already been made that refund must be repaid; unless the civil servant opts to make the repayment in one lump sum to be paid within 3 months of reemployment it will be recovered from wages or salary in equal instalments over a period commencing on reemployment and not exceeding 5 months;

(b) if a refund under paragraph (i) or (ii) above has not already been made its award will be cancelled.

(iv) Where an unmarried person ceases to be a civil servant on or after 1 December 1989, contributions due under rule 4.16(ii) may be reassessed as if he had died in service on the date that he ceased to be a civil servant, if he ceases to be a civil servant

— at age 60 or over; or ...

If the contributions (taking into account deductions under rule 4.17) paid in respect of service on or after 6 April 1978 exceed the contributions reassessed as due, a refund will be paid to or in respect of him in accordance with paragraph (ix). This is subject to paragraphs (xii) and (xiii). The refund will be made up of the balance — beginning with the last contribution paid — with compound interest, less a premium calculated in accordance with guidance provided by the Scheme Actuary ...

(ix) When this paragraph applies:

(a) the refund of contributions payable to the civil servant shall be paid as an additional lump sum when his pension commences under rules 3.1, 3.4,

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3.10a, 3.11, or 3.24a(ii) (the additional lump sum shall form part of the civil servant's pension commencement lump sum for the purposes of Part 4 of the Finance Act 2004)".