

Ombudsman's Determination

Applicant	Mr S
Scheme	Principal Civil Service Pension Scheme
Respondents	Cabinet Office MyCSP

Outcome

1. I do not uphold Mr S'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. Mr S' says reductions/deductions made to his Ministry of Defence (MoD) firefighter's salary paid for his pension. To enable him to claim an Undeducted Purchase Price (UPP) offset with the Australian Tax Office, he wants to know the amount he contributed towards the purchase price of his pension.

Background information, including submissions from the parties

4. Australian tax residents are taxed on their world-wide income so any foreign pension income received is taxable.
5. The UPP of a foreign pension is the amount that the taxpayer contributed to the purchase price of the pension or annuity over their working life.
6. As the total foreign pension income is taxable in Australia a deduction is allowed for the UPP amount so the taxpayer is only taxed on the net amount.
7. Mr S was an active member of the 'Classic' section of the Scheme from 1962 to 1994. Over the period the 'Classic' section was non-contributory, the benefits paid out of general taxation. The only contributions that Mr S made was 1.5% to the Widows Pension Scheme from 1972.
8. In 2006 Mr S became a permanent resident in Australia. Mr S says in 2014 his Australian tax accountant informed him of the potential availability of a UPP offset against his pension contributions to the Scheme.

9. Mr S duly asked MyCSP for details of contributions deducted from his salary for pension purposes. He was informed he had made none.
10. Mr S unsuccessfully appealed via the Scheme's two-stage internal dispute resolution (IDR) procedure.
11. At IDR stage 1, MyCSP:-
 - Confirmed that Mr S had made no contributions to his pension.
 - The only contributions he had paid was to secure a widows pension in the Widows Pension Scheme.
 - Asked MoD if there had been any additional deductions to Mr S' salary for pension purposes. The MoD's response was that Mr S' salary had been adjusted to align the salaries of MoD firefighters to Local Authority firefighters (who contributed a higher percentage of their salary towards the cost of providing pension benefits).
12. At IDR stage 2, Cabinet Office said:-
 - At the time Mr S was employed Civil Service pay was determined by comparing the total remuneration package of civil servants to that of employees elsewhere engaged in roughly similar work. This included pension arrangements, the contributions that comparable employees were making, the tax relief they were receiving on these and differences in terms and conditions.
 - The result was that, in Mr S' case, the MoD was probably paying him a lower rate of pay than it might otherwise have done if the Scheme had been a contributory arrangement.
 - Mr S made no contributions towards his pension.
 - If he required more about how his pay was determined he would have to ask the MoD.
13. Mr S says despite salary reductions (salary sacrifice 1962-1972) and salary deductions (1972 to 1994) he has been advised that he made no contributions to the Scheme. He says: "No matter how you word or look at it I paid for my pension; it was not free, it cost".

Adjudicator's Opinion

14. Mr S' complaint was considered by one of our Adjudicators who concluded that no further action was required by Cabinet Office or MyCSP. The Adjudicator's findings are summarised briefly below:-
 - The UPP of a foreign pension is the amount that the taxpayer contributed to the purchase price of his/her pension or annuity over their working life.

- Mr S accepts that his pension was non-contributory, but says he paid for it through 'salary sacrifice' / 'salary deductions'. But pension contributions paid on such a basis are classified as employer contributions. They do not qualify as employee pension contributions.
 - Mr S may qualify for a UPP deduction if he is receiving a UK State Pension.
15. Mr S did not accept the Adjudicator's Opinion and the complaint was passed to me to consider. Mr S 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 Mr S for completeness.

Mr S' further comments

16. Mr S says if his salary had not been reduced the full amount in his pay packet would have been subject to tax and a contribution to a pension scheme, in the same way as for Local Authority firefighters.
17. Mr S says the alignment of salaries for MOD and Local Authority firefighters did not address the issue relating to pension contributions. He says the fact remains that Local Authority firefighters pay a pension contribution, while MOD firefighters do not. The main difference is the benefits and accounting practice of each scheme.
18. Mr S reiterates he just wants confirmation of his cost paid to MOD during his service for his alleged free pension.

Ombudsman's decision

19. Mr S says he indirectly paid for his pension by receiving a lower salary than he would have done if he had been a Local Authority firefighter, who pays a pension contribution.
20. Nevertheless, as the Adjudicator said in his Opinion, pension contributions paid by salary sacrifice / salary deduction are not classified by HMRC as an employee pension contribution. Consequently, Mr S has no UPP in respect of his Scheme pension.
21. Therefore, I do not uphold Mr S' complaint.

Anthony Arter

Pensions Ombudsman
30 October 2017