

Ombudsman's Determination

Applicant	Mr S
Scheme	Armed Forces Pension Scheme (AFPS)
Respondent	Veterans UK (VetsUK)

Outcome

1. I do not uphold Mr S' complaint, and no further action is required by VetsUK.
2. My reasons for reaching this decision are explained in more detail below.

Complaint summary

3. Mr S' complaint against VetsUK, the managers of the AFPS, is that they have not allowed him to transfer pension benefits into the AFPS. Mr S says that he was not informed of any changes to the AFPS relating to the timescales within which transfers had to be made.

Background information, including submissions from the parties

4. Mr S enlisted in July 2012, and joined the AFPS 2005 Section (**AFPS 05**).
5. In November 2014, changes to the rules about transferring benefits into the impending AFPS 2015 Section (**AFPS 15**) were published in the Defence Instructions and Notice 2014DIN01-203 (the **DIN**). The DIN said:–

“This DIN explains a change to policy regarding transfer of non-Public Sector pension benefits ('non-Club') which, under current pension scheme rules, is permitted at any time up to the point at which the individual reaches their last year of service.

Service personnel who join AFPS 15 will have 12 months from the date of joining the scheme to transfer pension benefits accrued in another pension scheme into AFPS 15. Any transfer application received after the 12 month point will not be accepted.

Service personnel joining AFPS 15 who wish to transfer non-Club pension benefits earned from a previous employment, into their current pension

scheme, must do so before 1 April 2015. After this date, they will only be permitted to transfer these pension scheme benefits into AFPS 15, providing they do so within 12 months of joining the scheme”.

6. A booklet, ‘Your Pension Scheme Explained’ (the **Booklet**) was published online in March 2015 about AFPS 15. The Booklet dedicated a chapter to the new rules concerning transferring benefits. The Booklet said, in bold text:–

“Any transfer request must be made within 5 years of leaving the previous employer and must also be made within 12 months of becoming a member of AFPS 15”.

7. On 1 April 2015, Mr S became a member of AFPS 15, and his benefits in AFPS 05 were frozen.
8. On 12 April 2016, VetsUK replied to an email from Mr S. As there is no copy of the email, its contents are unknown, but Mr S says that he was enquiring about his pension after the award of his career commission. VetsUK told Mr S to contact a different department - Joint Personnel Administration Centre - for his request.
9. On 17 June 2016, Mr S wrote to VetsUK and asked how he could consolidate his pension pots. VetsUK replied on 5 July 2016, informing him that it was no longer possible to transfer his other pensions into AFPS 15, as the application was outside the transfer time limits. VetsUK said that because he automatically became a member of AFPS 15 on its introduction on 1 April 2015, he had 12 months from that date to transfer pension benefits into the Scheme.
10. On 8 July 2016, Mr S complained that he had not previously been notified that he had been transferred into AFPS 15, or that there was a deadline to transfer his benefits into it. VetsUK wrote to Mr S on 12 August 2016, explaining that he became a member of AFPS 05 when he enlisted in 2012, and he had the opportunity to transfer his pension pots into AFPS 05 while he remained a member of that scheme. VetsUK also said that he would have had a further opportunity to transfer benefits into the scheme in April 2015, when AFPS 15 was introduced. VetsUK said that the changes relating to transferring benefits into AFPS 15 were highlighted in the DIN, and his transfer application would not be re-considered.
11. On 19 August 2016, Mr S complained about VetsUK’s refusal of his application and said that he had been treated unfairly. VetsUK replied on 7 September 2016, and said that information on AFPS 15 was freely available on the Defence Intranet. They also said that any information that he could transfer his pension at any time would have been provided back in 2012. However, the Scheme rules had undergone several changes since then, and they could not be held responsible if he was unaware of the information provided on the Defence Intranet relating to AFPS 15.
12. On 8 September 2016, Mr S contacted VetsUK again. He said that he had tried to keep abreast of changes and attended a roadshow, but there was no mention of any changes to the time limits for transfers during the presentation. Rather, he was told

that he could transfer his benefits into the scheme any time up to 12 months before leaving. Mr S said he had only become aware of the DIN because VetsUK sent a copy to him. In any event, he would not know where to look for the DIN on the Defence Intranet. He insisted that incorrect information was provided to him in 2012, 2013, 2014 and 2015. He said that, as recently as August 2015, he was told about the 'Transferring Benefits' leaflet, which mentions that transfers were allowed into AFPS 05 at any time before the final year of service.

13. On 15 November 2016, Mr S enquired about transferring pension benefits into APFS 05. On 4 January 2017, VetsUK replied saying that his application for a late transfer into AFPS 05 had been turned down. VetsUK explained that he could not transfer pension benefits into AFPS 05 because he was no longer an active member of that scheme.
14. Mr S complained to VetsUK under the internal dispute resolution procedure (**IDRP**). He said that he was unaware of the transfer deadline and had not been informed that the AFPS 05 rules on transfers had changed.
15. On 20 February 2017, VetsUK responded under stage one of IDRP. They said that Mr S would have been aware of the rules about transfers into the AFPS 05 while he was an active member of that scheme, but he chose not to transfer at the time. VetsUK pointed out that they had issued the DIN in November 2014, informing members that changes were due to be implemented to those rules. They said that DINs were the normal means of communicating changes to personnel concerning terms and conditions, and it was the member's responsibility to make themselves aware of relevant DINs. VetsUK also mentioned the roadshows and the Booklet, which had a chapter explaining the amended transfer rules. VetsUK said that it was Mr S' responsibility to check whether the transfer rules had changed with the introduction of AFPS 15.
16. On 27 March 2017, Mr S appealed under stage two of IDRP. He denied any knowledge of the DIN and the Booklet, and said that neither document was available at the roadshow he attended in 2015. Mr S said that he was wrongly advised at the roadshow that there were no changes to the timescales for transferring benefits into the scheme. He also said that during 2013, 2014 and 2015, he was told that he could transfer his previous pension into AFPS 05 whenever he wanted to, as long as it was 12 months before leaving the scheme. He said he had asked about transferring his benefits into the scheme in April 2016 and, if he had been correctly informed of the impending deadline at the end of April 2016, he would have made an application to do so at that time.
17. In the stage two IDRP response, VetsUK said that sufficient information was provided about the introduction of the new AFPS 15 via videos, DINs, calculators, the Booklet and roadshows. They said that the roadshows were not meant to provide exhaustive comparisons between AFPS 05 and AFPS 15, and that other sources of information about AFPS 15 were made available at the time. VetsUK acknowledged that there was no record of the information given to him at the roadshow, and that information

about the publication of a DIN would have been in the 'weekly orders'. It was not their responsibility to ensure service personnel familiarise themselves with the rules of AFPS 15.

18. Unhappy with the final response from VetsUK, Mr S brought his complaint to us. While he says that he did attend a roadshow, he maintains that he was unaware of any videos, DINs, calculators and the Booklet. In 2013, he says that a colleague told him that transfers into the scheme had to be made at least a year before leaving. He suggests that a special presentation or email concerning the changes in AFPS 15 could have been sent to his unit as it is a small branch of the Armed Forces.

Adjudicator's Opinion

19. Mr S' complaint was considered by one of our Adjudicators who concluded that no further action was required by VetsUK. The Adjudicator's findings are summarised briefly below:-
 - There is no evidence to substantiate Mr S' claims that he has been misled since 2012 about transferring his benefits into either AFPS 05 or AFPS 15.
 - Until his benefits in AFPS 05 were frozen in April 2015, it was correct that he could transfer his benefits into that scheme at any time before the last year of his membership. Although he has retained benefits in AFPS 05, he is no longer an active member of that scheme following the introduction of AFPS 15.
 - Regarding AFPS 15, there is no evidence from 2012, 2013, 2014 or 2015, that VetsUK told Mr S that he would be able to transfer pension benefits into it at any time, until a year before leaving the scheme.
 - Without a contemporaneous record of the conversation Mr S says that he had with an un-named organiser at a roadshow he attended in 2014 or 2015, it is not possible to verify the details of what he was told at the time, what was discussed, or what information he was provided with. Consequently, the Adjudicator was unable to uphold the complaint that he was given misleading information at the roadshow.
 - If the roadshow was before November 2014, when the DIN was issued, it would not have been possible for VetsUK to have provided Mr S with a copy of it or informed him about it. Also, since 2011, DINs have only been available online, so a printed copy is unlikely to have been available at the roadshows.
 - It is not reasonable to expect VetsUK to have identified which of its members were interested in transferring, and for them to specially target those members with information about the new transfer timescales. VetsUK are responsible for informing all members about AFPS 15, and all members have access to the relevant DINs on the Defence Intranet.

- The DIN was a reasonable means of achieving the objective of reaching all members at the same time, and with the same message about AFPS 15. It is reasonable to expect members to be proactive in seeking answers to specific questions they have about the scheme. Mr S was aware of the previous transfer timescales for AFPS 05, and he could have checked if those same timescales applied under AFPS 15.

20. Mr S did not accept the Adjudicator's Opinion and the complaint was passed to me to consider. Mr S mostly repeated his earlier comments, but these 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.

Ombudsman's decision

21. Mr S says that in requesting his transfer in, he was acting on the information he had previously received – that is he could transfer in up until 12 months before leaving and that no-one had ever contradicted or corrected this statement.
22. Mr S says that he was not told that he could transfer his benefits into AFPS 15 when it was introduced. He questions why his attention was not drawn to the Booklet, new timescales and the DIN before his transfer application was refused, and asks again why he cannot transfer his benefits into AFPS 05. He considers that he is being penalised for VetsUK's failure to inform him of the transfer timescales into AFPS 15.
23. As already mentioned in the Opinion, Mr S' AFPS 05 benefits have been frozen but they have not been lost. Although Mr S has benefits in both AFPS 05 and AFPS 15, he is now only an active member of AFPS 15. It is only possible to contribute into a scheme if you are an active member of that scheme. Just as Mr S can no longer contribute into his former employer's scheme, he still retains his benefits in AFPS 05, but it is now closed to him, meaning that he can no longer contribute into it. This includes transferring any existing pension benefits into AFPS 05 from other schemes. If Mr S has further questions about his AFPS 05 benefits, he should contact VetsUK directly.
24. Mr S feels that the onus was on VetsUK to ensure that he was aware of the transfer deadline for AFPS 15. When Mr S joined AFPS 05 in 2012, he would have received a member booklet introducing the key features of the scheme; the booklet was also available online. This booklet would have explained that transfers into AFPS 05 were allowed until 12 months before leaving the scheme. Likewise, the Booklet, which was published online in March 2015, explained that transfer into AFPS 15 must be made within 12 months of becoming a member of AFPS 15. I am therefore satisfied that similar prominence was given to Mr S regarding transfers into AFPS 05 and AFPS 15.

25. In addition, VetsUK could not have known that Mr S was interested in transferring benefits into the scheme. There is no evidence of what information Mr S requested, or was provided with, at the roadshow, so I cannot take that into account. Based on the available evidence, the first notice VetsUK had of Mr S' interest in transferring benefits into AFPS 15, is when he made his request on 17 June 2016. Accordingly, VetsUK would not have known to provide specific information about the transfer deadline to Mr S before June 2016, by which time it was too late for Mr S to request a transfer into AFPS 05 or AFPS 15.
26. With regard to the roadshows conducted, VetsUK have provided additional information about the PowerPoint presentation that would have been made. The slides show that a brief comparison of the AFPS 05 and AFPS 15 would have been made during the presentation. The comparison would not have been exhaustive, but reference would have been made to DINs, and more details being available on the Intranet and the Ministry of Defence website. At the end of the presentation, reference was also supposed to be made to the launch of AFPS 15 booklets, which would be similar to the AFPS 05 booklet. I acknowledge that Mr S does not recollect any reference being made to booklets, DINs or the website, but it would be more likely than not for a presentation about the introduction of the AFPS 15 to mention other available sources of information for those wanting to find out more.
27. Furthermore, the DIN and the Booklet also provided information to all members of AFPS about the introduction of AFPS 15 generally, and the deadlines for transferring benefits into AFPS 15. The Booklet may not have been sent directly to all AFPS members, but it was available online to all interested members and there was no obligation on VetsUK to ensure that all members had read it. There is no obligation on VetsUK to have drawn Mr S' attention specifically to the transfer deadline for AFPS 15 – it is sufficient that they made such information available to him, just as when he originally joined the AFPS 05.
28. The introduction of AFPS 15 was a significant change and Mr S has confirmed that he attended one of the roadshows that were conducted as part of that campaign. He says, and I accept his submission, that he did not realise that his active membership had been transferred into it. The presentation went through the benefit structure of the new scheme and the way that it would in future apply to active accrual in some detail. It then provided links to that part of the website where further information was available. I appreciate that Mr S was unaware of the changes to the scheme, but I am satisfied that VetsUK took appropriate steps to bring them to his attention.
29. To be clear, Mr S has not done anything wrong, but neither has VetsUK. Mr S has not been penalised as he claims; his benefits with previous employers remain available to him, only that it cannot be transferred into AFPS 05 or AFPS 15. I am satisfied that sufficient information was available to all members about the introduction of AFPS 15, and it was then a matter for Mr S to seek out the specific information relevant to his circumstances.

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30. I recognise Mr S' disappointment, but I have not seen any evidence that VetsUK misled him or failed in any obligation to provide information to him regarding the introduction of AFPS 15. Therefore, I do not uphold Mr S' complaint.

Karen Johnston

Deputy Pensions Ombudsman
18 December 2018