

Ombudsman's Determination

Applicant	Mrs N
Scheme	The Transport Friendly Society Pension Scheme (the Scheme) The Principal Civil Service Pension Scheme (the PCSPS)
Respondents	Trustee of the Transport Friendly Society Pension Scheme (the Trustee) Cabinet Office MyCSP

Outcome

1. Mrs N's complaint is upheld and to put matters right the Trustee shall reinstate her to the Scheme.

Complaint summary

2. Mrs N has complained that the pension benefits accrued whilst she was a member of the Scheme have gone missing.

Background information, including submissions from the parties

3. Mrs N was an employee of the London Transport (Central Road Services) Employees' Friendly Society. She left employment in 1986 and took up employment with the Department of Education and Science and became a member of the PCSPS.
4. When Mrs N contacted the Scheme in 2015 to enquire about her pension benefits, they responded to say these had been transferred to PCSPS in 1989.
5. However, a retirement quote issued to her by the PCSPS on 14 April 2015 did not include details of the transferred benefits and, on further enquiry, MyCSP, the administrators of the PCSPS, said it could find no evidence of the transfer having taken place.
6. The Trustee provided a copy letter dated 15 September 1989, to the Department of Education and Science E&O Branch, which says a cheque for £1,859.00 in full payment of the transfer value for Mrs N was enclosed.

7. A further letter of the same date, addressed to Mrs N, confirmed the payment.
8. The Trustee made enquiries with its bank but was unable to obtain any evidence of the cheque having been cashed due to the passage of time.
9. Despite searches having been made by Mrs N, the Trustee and MyCSP no further information or evidence has been forthcoming.
10. Mrs N complained to MyCSP. In its response dated 14 March 2018, it concluded there was no evidence the transfer had been completed. It also pointed out HMRC had confirmed the liability for Mrs N's benefits was not held with the PCSPS. It did, however, acknowledge the distress and inconvenience caused to Mrs N and in this respect offered an award of £500.

Adjudicator's Opinion

11. Mrs N's complaint was considered by one of our Adjudicators who concluded that further action was required by the Trustee only. The Adjudicator's findings are summarised below:-
 - The fact of Mrs N's membership of the Scheme is not disputed. The Scheme has previously confirmed she was entitled on leaving to a preserved pension of £950.31 per annum.
 - The starting point must be that the liability remains with the original pension scheme unless it can be shown, on the balance of probabilities, the deferred benefits were transferred to another pension arrangement.
 - Whilst the Scheme has been able to produce contemporaneous letters confirming a cheque was issued, this in itself is not sufficient to confirm the transfer was completed.
 - MyCSP say there is no evidence to show the cheque was received or banked. The Scheme's bank has been unable to provide evidence to the contrary and there is no evidence in the form of a signed discharge or other correspondence to show the liability was transferred.
 - Furthermore, HMRC has confirmed to MyCSP that according to its records the liability for Mrs N's pension is not held by PCSPS.
 - The Scheme may argue that Mrs N had some responsibility to manage her own affairs. Clearly, she would have been aware of the transfer potentially taking place and a letter was sent to her to confirm this fact. However, there is nothing to show Mrs N had any specialist pension knowledge or expertise and so it is not unreasonable for her to have expected the Scheme to have carried out its duty towards her in a professional and competent manner without her involvement.

- The Trustee has also argued PCSPS would have chased for the transfer payment had it not been received and there is no evidence they did so. However, this is not conclusive and, as the Trustee has said, there is no evidence either way.
12. The Trustee did not accept the Adjudicator's Opinion and the complaint was passed to me to consider.
 13. The Trustee provided further comments which do not change the outcome. I agree with the Adjudicator's Opinion and I will therefore only respond to the points made by the Trustee for completeness.

Ombudsman's decision

14. The Trustee has said that its pensions adviser had been asked to check the Scheme to see if there were any funds un-accounted for, which would suggest that Mrs N's funds were never transferred out of the Staff Pension Scheme and are still retained. The adviser informed the Trustee that there are no un-accounted funds.
15. The Trustee also said this type of situation does not appear to be an isolated incident as far as the PCSPS is concerned, as per an article in the Mail on Sunday publication of 1 December 2019. They argue the case referred to in that article is very similar to Mrs N's case and demonstrates a clear weakness in the PCSPS' systems and controls which leads to them 'losing transferred-in' contributions, which is what the Trustee is saying happened here.
16. In view of this, the Trustee said it was sending a Freedom of Information request to the PCSPS seeking information on how many other such cases they have had in the last 10 years. The Trustee requested that I delay my review of the case until such time as the PCSPS responded to the Freedom of Information request.
17. Whilst I appreciate the additional efforts made by the Trustee and its adviser to locate Mrs N's benefits, the fact they have been unable to do so does not amount to compelling proof that they were transferred when weighed against the other evidence.
18. Furthermore, I have to consider the merits of this case in light of the evidence presented and not on what may or may not have happened in other cases.
19. The Trustee's inability to show beyond doubt that the transfer was completed, together with the confirmation from HMRC that there is no record of the liability for Mrs N's pension resting with the PCSPS leads me to conclude, on the balance of probability, that the transfer was not completed and that the liability for Mrs N's pension remains with the Scheme.
20. Therefore, I uphold Mrs N's complaint.

Directions

21. Within 28 days of the date of this Determination, the Trustee shall reinstate Mrs N to the Scheme with a deferred pension entitlement of £950.31 per annum, making allowance for any revaluation increase the deferred pension would have attracted to date, and inform her in writing of the current value.
22. MyCSP has offered to pay Mrs N £500 for her distress and inconvenience which is in line with the award I would make in these circumstances. Mrs N should contact MyCSP should she wish to accept the offer.
23. MyCSP has indicated it would be prepared to accept a transfer of the deferred pension and I leave it to Mrs N to decide if this is something she would like to pursue.

Anthony Arter

Pensions Ombudsman
20 January 2020