

Ombudsman's Determination

Applicant	Miss G
Scheme	Civil Service Pensions (the Scheme)
Respondent	MyCSP

Outcome

1. I do not uphold Miss G's complaint and no further action is required by MyCSP.
2. My reasons for reaching this decision are explained in more detail below.

Complaint summary

3. Miss G's complaint concerns the advice she received from MyCSP when she sought assistance in completing her benefit options forms. She believes she was misinformed by MyCSP and this has resulted in her annual pension being reduced.

Background information, including submissions from the parties

4. In August 2017, Miss G took partial retirement and applied for her benefits from the Scheme. On 17 August 2017, the Scheme sent Miss G a quote that informed her of the options available in relation to her benefits. It also sent her a benefits options form (**the Form**).
5. Between 17 August and 12 October 2017, Miss G contacted MyCSP by telephone, to discuss her options in relation to the quote she had received.
6. On 25 August 2017, Miss G signed the Form and chose option 2, which stated:

"Option 2 – Maximum lump sum

I wish to take the maximum lump sum that is allowed by HM Revenue and Customs.

I understand that my pension will be reduced by £1 a year for each £12 of additional lump sum that I take."

7. On 20 October 2017, MyCSP emailed Miss G and informed her that while processing her retirement award it received new information from her employer which showed that her pensionable pay was lower than it was at the time the quote, in August 2017, was sent. It explained that as a result, her maximum lump sum was approximately £6,000 less than the sum quoted. MyCSP asked Miss G to confirm if she wished to proceed with the maximum lump sum option based on this information.
8. On 24 October 2017, MyCSP sent Miss G a further email explaining that her partial retirement had taken her salary increase into consideration. MyCSP informed Miss G that the quote she had received had incorrectly incorporated a pension increase factor which elevated her pensionable earnings.
9. The email also said:

“Since you have requested to take maximum lump sum, please let us know if you would like a requote so you could verify the final figures better and confirm if you would still like to have the maximum lump sum as your option.”
10. On 25 October 2017, MyCSP sent Miss G a new quote and benefit options form (**the new Form**).
11. Between 24 October and 24 November 2017, there were further telephone calls between Miss G and MyCSP concerning the new quote she had received.
12. Miss G signed the new Form on 14 November 2017 and chose option 2 again. Option 2 on the new Form was the same as option 2 on the previous Form.
13. In December 2017, Miss G queried with MyCSP if she could amend her benefit choice. MyCSP responded to Miss G on 14 December 2017 by email and said, “unfortunately, as your benefits are already in payment, amendments to your maximum lump sum cannot be made as the forms had been signed and dated by yourself.”
14. Following receipt of that email, Miss G wrote to MyCSP to inform it that she felt she had been misled in relation to her options for her pension. In response, MyCSP wrote to Miss G on 22 December 2017 and said:

“I can only apologise to you if you felt that you were misled in relation to your option for your pension and this letter is to provide you with options.

Initially you can keep the maximum lump sum as it is and take the annual pension at the current rate going forward.

Secondly we may be able to do a revision with you for the pension going forward. To enable us to do this we would need to look into setting up an overpayment plan with you to pay back any excess lump sum that you may have had as the lump sum would have been lower if you had taken another option.”

15. On 8 January 2018, MyCSP emailed Miss G to inform her that it had listened to the telephone calls between her and MyCSP. MyCSP explained that based on the call recordings it could find no evidence that Miss G was misinformed. It explained that it was unable to locate some of the recordings of the calls Miss G made to MyCSP on 24 and 25 August 2017 and asked her for some further information in relation to calls on those dates.
16. In the same email MyCSP said:

“The Civil Service Pension Scheme (CSPS) is designed and managed by The Pension Scheme Executive (TPSE), a division of the Cabinet Office, and is administered by MyCSP on their behalf. Current TPSE guidance is that a change of mind or a misunderstanding of the available options is not sufficient to allow a change to the member’s benefits.

A change can only be made if MyCSP can be shown to have misinformed to a member [sic] about their options, makes an administrative error when processing the member’s benefits, or if the member can provide documentary evidence that they intended to make an alternative option.”
17. Between 10 January 2018 and 4 April 2018, there was further correspondence between Miss G and MyCSP regarding her being allowed to change her benefit option. During this period, Miss G provided evidence of the dates and times between August and November 2017 that she contacted MyCSP. Miss G also expressed her disappointment that MyCSP had originally informed her, in its letter of 22 December 2017, that it would look at revising her pension if she returned the lump sum but, it later said, in its email of 8 January 2018, that it could not do so.
18. This resulted in Miss G writing to MyCSP on 4 April 2018, to inform it that she was raising a formal complaint. Miss G also referred her complaint to this Office.
19. In response to Miss G’s complaint, MyCSP explained that it had not investigated the complaint under its internal dispute resolution procedure (**IDRP**). MyCSP said that it had responded to Miss G on 10 April 2018 and advised her to raise a formal complaint with MyCSP and it enclosed an IDRP Stage one application for her to complete and return. However, it did not receive a completed IDRP form or any further correspondence from Miss G.
20. This Office responded to MyCSP and explained that although the IDRP had not been completed, Regulation 3(2) of The Personal and Occupational Pension Schemes (Pension Ombudsman) Regulations 1996 (SI 1996 No. 2475), allows us to investigate complaints that had not been through this procedure in certain circumstances.
21. We explained that in our view, it was reasonable to accept this complaint for investigation, despite IDRP not being completed. This is because Miss G had raised her complaint with MyCSP over four months ago but had not received a response.

22. Consequently, MyCSP sent this Office copies of correspondence between itself and Miss G in relation to her complaint. It also sent us copies of the call recordings between Miss G and MyCSP, that occurred between 17 August and 24 November 2017, and made the following comments:-

- Having listened to the calls, including calls between 24 and 25 August 2017, it could find no evidence that MyCSP misadvised Miss G in relation to the completion of her lump sum option form.
- A member's benefits can only be changed if MyCSP had misinformed the member about their options, made an administrative oversight, or if the member can provide documentary evidence that they intended to make an alternative option.

Adjudicator's Opinion

23. Ms G's complaint was considered by one of our Adjudicators who concluded that no further action was required by MyCSP. The Adjudicator's findings are summarised below:-

- The Adjudicator had listened to the telephone calls between Miss G and MyCSP regarding the issuing and completion of the pension quotes. However, she could find no evidence that MyCSP had advised Miss G of how to fill out the Forms.
- The Adjudicator noted that during a telephone call with MyCSP on 24 August 2017, Miss G had queried if she could give up some of her lump sum to receive a higher monthly pension. During that call, the call handler explained to Miss G that if she ticked option four, her benefits would have to be recalculated.
- During a call with MyCSP on 25 August 2017, the call handler explained to Miss G, the different amounts of pension she could receive if she chose to give up some of her lump sum. The call handler also informed Miss G that she needed to tick option 4 on the Form if she wished to do so.
- In another telephone call with MyCSP, on 29 August 2017, Miss G had informed the call handler that she had chosen option 2 as that is what she wanted to do.
- Additionally, in a further telephone call with MyCSP on 24 November 2017, Miss G confirmed that she wished to take the maximum lump sum.
- The Adjudicator noted that Miss G said she had received a letter from MyCSP dated 22 December 2017, which informed her that if she returned the excess lump sum, it would complete a revision of her pension. The Adjudicator understood that Miss G was subsequently disappointed that on 8 January 2018 she received an email from MyCSP which informed her that without documentary evidence, MyCSP's position remained the same.

- However, it was the Adjudicator's view, that, the use of the word 'may' in MyCSP's letter of 22 December 2017, meant that it was not guaranteeing Miss G that MyCSP would complete a revision of her benefits.
 - Therefore, while the Adjudicator understood that Miss G would like to change the option she chose for her benefits, it was the Adjudicator's view that I would not direct MyCSP to allow Miss G to do so. This is because the evidence does not support that Miss G was misinformed by MyCSP, about what option to choose on the Forms.
24. Miss G did not accept the Adjudicator's Opinion and in response made the following points:-
- She is unable to access the telephone call recordings, due to the size of the files. Therefore, she is unable to comment on them.
 - It was always her intention to have the largest monthly income possible while not depleting her lump sum too much. It is not the case that she just changed her mind. She still has the excess lump sum to exchange if she is permitted to do so.
 - Regarding MyCSP's letter of 22 December 2017, she feels it is a very grey area as the word 'may' expresses the 'possibility' of a revision. Therefore, MyCSP should have stated, in that letter, that without documentary evidence, its position remained the same. It should not have sent a separate email, over two weeks later, stating this.
 - She feels the letter of 22 December 2018⁷ from MyCSP was positive and misleading.
25. The complaint was passed to me to consider. I agree with the Adjudicator's Opinion and I will therefore only respond to the key points made by Miss G for completeness.

Ombudsman's decision

26. Miss G asserts that she was misinformed by MyCSP, when it advised her of what option to choose on the Forms.
27. I understand Miss G's disappointment that she is not receiving her benefits in the way that she says she had intended to receive them. However, the evidence does not support that this error was due to MyCSP's maladministration. There is no evidence to support Miss G's assertion that MyCSP had misinformed her of what option to choose on the Forms.
28. Additionally, prior to Miss G's benefits being put into payment, in emails dated 20 and 24 October 2017, MyCSP informed Miss G that she had chosen the maximum lump sum option. Consequently, I find that Miss G could have informed MyCSP, prior to the payment of her benefits, that she did not want the maximum lump sum option if this was not her intention when she completed the Forms.

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29. Therefore, while I sympathise with the situation Miss G is now in, I am unable to direct MyCSP to change the way Miss G's benefits have been set up.
30. Consequently, I do not uphold Miss G's complaint.

Anthony Arter

Pensions Ombudsman
18 December 2018