

Ombudsman's Determination

Applicant	Mrs J
Scheme	Principal Civil Service Pension Scheme (the Scheme)
Respondents	Department for Work and Pensions (DWP); Civil Service Pensions (MyCSP) and Cabinet Office

Outcome

1. Mrs J's complaint against DWP and MyCSP is partly upheld, but there is a part of the complaint I do not agree with. To put matters right for the part that is upheld, DWP should (1) provide MyCSP with correct and up to date information in relation to Mrs J's Scheme membership, so that MyCSP can provide her with corrected statements and (2) pay Mrs J £1,000 in respect of the serious distress and inconvenience this matter has caused. MyCSP is not required to take further action.
2. My reasons for reaching this decision are explained in more detail below.

Complaint summary

3. Mrs J's complaint is against (1) DWP, her employer, and (2) MyCSP, the Scheme administrator, and relates to various issues that have occurred following her dismissal from, and re-instatement to, DWP.
4. In summary, she says DWP and MyCSP have provided unclear and inadequate information regarding her pension benefits. As a result, she has been unable to establish that her pension record has been corrected following re-instatement. Her complaint is outlined in her own words in the Appendix.

Background information, including submissions from the parties

5. In January 1986, Mrs J joined DWP and became a member of the Classic section of the Scheme.
6. In February 2017, Mrs J was dismissed from DWP. The following month, after an appeal, she was re-instated. As part of the process, it was agreed she would have no break in service of her Scheme membership.

7. However, Mrs J was then re-enrolled in the Alpha section of the Scheme, rather than the Classic section, for April and May. This was corrected from 1 June 2017, with no loss of service, but corrected statements were not provided. At around the time, Mrs J formally complained to DWP about this and other issues.
8. In July 2017, DWP wrote to Mrs J stating that her “pay issues” had been resolved. Around the same time, MyCSP provided her with a breakdown of her contributions to the Scheme. It also confirmed that DWP had taken “corrective action” and re-enrolled her into the Classic section, and her service would be continuous.
9. In August 2017, DWP amended Mrs J’s records and discovered a service break in her record, from June 1988 to October 1998. She queried this. Sometime after that, after receiving corrected information from DWP, MyCSP informed Mrs J she was in fact only on a break from June 1988 to October 1988.
10. In October 2017, DWP told Mrs J it had corrected her Scheme membership and enrolled her back in the Classic section, with no break in service. However, she said it had provided insufficient evidence, including a full breakdown of figures as requested. As a result, she was unable to establish that her record was correct. In addition to the incorrect re-instatement, she was concerned that:-
 - DWP had provided incorrect membership records to MyCSP, including a ten-year break in service which did not exist;
 - There was no record of her contributions to the Scheme in 1985/86 and 1986/87, even though she was employed by DWP at those times; and
 - Her contributions for 2017/18 had been recorded incorrectly, being lower than previous years. She had also received no clear information about the formulas/dates used nor a clear explanation of the refund of widow’s pension contributions.
11. In January 2018, unhappy with DWP’s and MyCSP’s responses, Mrs J referred her complaint to our service. At our suggestion, she formally complained to MyCSP under the Scheme’s Internal Dispute Resolution Procedure (**IDRP**). She said:

“Some of the points have been partly answered but a clear, transparent breakdown of before and after is what I seek....”
12. From January to May 2018, Mrs J continued corresponding with DWP, MyCSP and our service, to establish that her record had been corrected. MyCSP sent Mrs J an interim response which covered some of the issues she had raised. Around the same time, our service wrote to Mrs J, saying that we would only consider those parts of her complaint that arose during the past three years. Further, since she had referred her case to an employment tribunal, any issues considered by that forum could not also be considered by our service (and our investigation might have to be discontinued).

13. In June 2018, MyCSP wrote to this Office. It said, due to conflicting information from DWP, it had requested a full breakdown of Mrs J's service history.
14. In August 2018, MyCSP responded to Mrs J under stage one of the Scheme's IDRP. The key points were:-
 - Regarding her Scheme membership, it explained why DWP enrolled Mrs J into the Alpha section of the Scheme, following her re-instatement, and said this was incorrect; it should have enrolled her back into the Classic section. Her pension record had been corrected, however there remained discrepancies, so it upheld this part of her complaint. It also told DWP to review the information it had provided to MyCSP and ensure her record was updated. As a member of the Classic section, her benefits were calculated based on her pensionable earnings and reckonable service. Therefore, she had suffered no financial detriment as a result of DWP's error.
 - Regarding the incorrect break in service, MyCSP's records included a break of more than ten years, from June to October 1998, which was caused by DWP's giving MyCSP inaccurate information. Under the Scheme regulations, MyCSP was entitled to rely on information provided by employers. DWP had now corrected the period recorded for the break in service.
 - Regarding Scheme years 1985/86 to 1986/87, Mrs J had requested clarification of what happened during these times, as there was no information about the contributions she made then. MyCSP said, before July 1987, women were not required to pay contributions in respect of Widows Pension Scheme (**WPS**) benefits. Member contributions did not begin until 2012, so it would not expect contributions to have been recorded. Its records were therefore correct, and this part of the complaint was not upheld.
 - Regarding Scheme contributions for 2017/18, the reason these were lower than other years was, MyCSP's July 2017 estimate included contributions between April and July only; previous statements showed contributions for the whole scheme year. Full details of Mrs J's WPS and member contributions to date were appended to the letter; any dispute about the amounts should be directed to DWP.
 - Regarding WPS contributions, full details of Mrs J's WPS refund, and Post Retirement Widow's Pension (**PRWP**), would be provided with her retirement quote, but could not be provided while she remained in active membership.
 - MyCSP could not provide a statement based on incorrect scheme membership, as Mrs J had requested. As her record had now been corrected, the new (correct) information had overridden the old (incorrect) information.
 - Finally, Mrs J still required a corrected statement of benefits. However, there remained a number of discrepancies. So, MyCSP had instructed DWP to send it an updated breakdown of her record; it would monitor the progress of this and updated her as soon as possible.

- It was clear that Mrs J had experienced “great difficulties” obtaining correct information about her record. However, in its opinion these difficulties were caused by DWP’s failing to provide it with correct information regarding her membership. Therefore, it had instructed DWP to pay her £250 for the distress and inconvenience caused.
15. Our service informed Mrs J that she could appeal to stage two IDRP if she remained unhappy. However, there was no need to because her complaint had been accepted already. Mrs J therefore did not invoke stage two of the IDRP. However, she emailed MyCSP, and copied our service, explaining what she still required. She said:-

“I would like to see the difference in my benefit statements once the required adjustments have been made. Please can you confirm all necessary payroll, PAYE tax and National Insurance issues have been corrected, where these are affected/impacted by DWP’s incorrect records? I requested an external Accountant’s checks to be paid for by DWP but DWP have refused.”

Adjudicator’s Opinion

16. Mrs J’s complaint was considered by one of Adjudicators, who concluded further action was required by DWP but not MyCSP. His findings are summarised below:-
- The crux of Mrs J’s complaint was that she was incorrectly enrolled in the Alpha section of the Scheme, rather than the Classic section, after being re-instated in DWP. It was accepted this was an error by DWP. So, there was no dispute that DWP made an administrative error. However, Mrs J remained unhappy that she had been given insufficient evidence to show that her record had been rectified.
 - The Adjudicator agreed that DWP should provide up to date information to MyCSP, so it could provide Mrs J with corrected statements showing that pension record was correct. The statements should show that Mrs J’s record was as it would be if (1) she had never been dismissed, (2) she had not been enrolled in the wrong section and (3) there were no other errors in her membership.
 - The 10-year break in Mrs J’s service had also been caused by a DWP error; the breaks had only been a few months. However, this was corrected in August 2017. Mrs J apparently still lacked a statement showing the correct period of service. The Adjudicator agreed this should be provided as soon as possible.
 - Mrs J also lacked a “clear, transparent explanation” of what happened to her pension record in 1985/86 and 1986/87. However, MyCSP had explained, the reason it held no information about contributions for that period was that before July 1987, women did not have to pay contributions in respect of WPS benefits. Member contributions did not start until 2012; so, it was normal that there was no record of contributions for 1985/86 and 1986/87. The Adjudicator said, this explanation was clear, so neither DWP nor MyCSP was required to take further action.

- Mrs J was also concerned that MyCSP had provided a lower, incorrect, figure for her contributions in 2017/18. However, MyCSP had explained this was because the figure was produced part-way through the year; it was normal for contributions to be lower at that stage, compared to at the end of the year.
- Finally, Mrs J said she had not yet received “transparent formula/calculations used with when (timing) of when I can receive the refund of the compulsorily deducted dependents/widow/ers payments.” However, the Adjudicator thought MyCSP had provided a reasonable explanation, that is. it would not provide a breakdown of WPS refunds until she retired. So, neither DWP nor MyCSP had acted in error.
- The main issue was, MyCSP still needed to provide a statement of benefits reflecting Mrs J’s correct member record. But it said there were still “discrepancies” that DWP had to correct; MyCSP could take no further action until then. The Adjudicator said that was reasonable. Once DWP corrected the discrepancies/errors, it should provide the required information to MyCSP, so MyCSP could send Mrs J an updated statement.
- The Adjudicator considered two requests from Mrs J. First, she wanted some incorrect statements to compare and contrast with correct ones. Second, she wanted DWP cover the cost of an accountant, to confirm that her record was correct. However, the Adjudicator said it was not appropriate for DWP and/or MyCSP give Mrs J incorrect information. Further, whilst DWP made the initial error, and should put it right at no cost, it was not appropriate for it to cover the cost of any professionals Mrs J employed.
- Finally, the Adjudicator said that Mrs J had first complained to DWP about this issue in July 2017. It was now February 2019; however she had still not received a corrected statement showing she was back in the correct position. The Adjudicator said that DWP should have been able to provide the relevant information to MyCSP, to allow it to provide Mrs J with corrected statements, much sooner. So, he considered that DWP should award her £1,000 in respect of the serious distress and inconvenience this delay would have caused.
- The Adjudicator said, MyCSP was entitled to rely on information provided by DWP, and MyCSP was not responsible for the error that led to Mrs J’s complaint. MyCSP also made reasonable efforts to respond to Mrs J’s concerns.
- The Adjudicator also said, all sides accepted the errors originated with DWP, it was unclear that MyCSP was at fault in not identifying any errors and DWP could not expect other parties to prevent any consequences of its own errors. So, it was for DWP, not MyCSP, to compensate Mrs J for any non-financial injustice.
- Finally, Mrs J had received a further statement in November 2018. But it was still wrong. However, according to MyCSP’s email of December 2018, it would take a few months for the updates to be reflected on Mrs J’s record. Any other issues raised by Mrs J in December 2018, could not be considered under our service’s process. The key issues that could be considered, were those DWP and MyCSP had investigated and responded to, as outlined in the Appendix.

- It was therefore the Adjudicator's opinion that the complaint should be upheld against DWP, but not against MyCSP. He said that DWP should provide MyCSP with correct and up to date information, allowing MyCSP to produce an updated statement based on Mrs J's correct service record, breaks and salary. Further, DWP should award Mrs J £1,000 to recognise the serious distress and inconvenience which Mrs J had suffered.
17. The Cabinet Office, on behalf of DWP and MyCSP, accepted the Opinion and provided its further comments. In summary they were:-
- DWP agreed with the Opinion and agreed to pay Mrs J £1,000. It also said Mrs J's reckonable service had been corrected to include the additional service. Finally, it said DWP had asked MyCSP to issue Mrs J with an updated statement.
 - MyCSP accepted the Opinion and had nothing to add. MyCSP also said that it was not possible to provide Mrs J with an incorrect annual benefit statement. In any case, it was in agreement with the Adjudicator's Opinion, which said this was not appropriate.
18. Mrs J did not accept the Opinion and provided her further comments. They were:-
- The Adjudicator had said her complaint was against the DWP and MyCSP. However, she was only dissatisfied with DWP. She was forced to communicate with MyCSP because DWP refused to assist with resolving the issue.
 - The information she had been provided to date was "incomplete and opaque". She had repeatedly asked DWP/MyCSP for "before and after" pension forecasts, to "compare and contrast", and ascertain that she was in the correct position. This had not been provided.
 - Her "forced absence", caused by DWP's treatment of her, and its refusal to make reasonable adjustments, which she was pursuing elsewhere, was adversely affecting her pension forecast.
 - As at October 2018, DWP/MyCSP still held incorrect records for her, despite having previously assured her everything was corrected. This was dishonest and a breach of the Civil Service Code.
 - After numerous emails and phone calls, DWP had still not provided her with the information she requested. This had caused a significant level of stress, which had adversely affected her health, for which she provided evidence.
 - Nor had DWP paid her a performance bonus, which would adversely affect her pension benefits.
 - She would have expected a higher figure than the £1,000 recommended by the Adjudicator. In summary, this was because of the length of time this matter had been ongoing, the high level of stress caused and the fact she had been left "in limbo" and unable to make retirement plans.

19. As Mrs J did not accept the Adjudicator's Opinion, the complaint was passed to me to consider. Mrs J provided her further comments, which do not change the outcome. I agree with the Adjudicator's Opinion and I shall therefore only respond to the key points made by Mrs J for completeness.

Ombudsman's decision

20. Mrs J says her complaint was never against MyCSP; she only complained about it because DWP refused to assist her. I accept the complaint mostly lies against DWP. It was DWP that made the original error, re-enrolling Mrs J in the wrong section. However, MyCSP responded to, and is a party to, the complaint Mrs J has referred to this Office. Based on the available evidence, I find that MyCSP did not make any administrative errors in this case. It was entitled to rely on, and did in fact rely on, the accuracy of the information provided by DWP. Further, it made reasonable efforts to investigate and reply to the issues Mrs J raised. Therefore, MyCSP is not required to take further action. It has agreed to provide an updated statement, once it has received the required information from DWP.
21. Mrs J says the complaint cannot be closed until the corrected statements have been provided. However, I agree that, as the Cabinet Office has confirmed that the DWP has asked MyCSP to provide Mrs J with an updated statement, this should be provided shortly, if it has not been provided already. My directions below seek to ensure that this is completed within a definite period of time. In addition, the issue of Mrs J's reckonable service is in the process of being confirmed, as agreed by the Cabinet Office. In any case, there is insufficient evidence that Mrs J raised this issue under her original complaint to DWP/MyCSP, as outlined in the Appendix. Therefore, I make no findings on this issue.
22. Moreover, I agree neither MyCSP nor DWP is required to provide Mrs J with incorrect statements, for comparing and contrasting. While the Cabinet Office asked MyCSP whether this was possible, MyCSP subsequently confirmed, via the Cabinet Office, that it is not. In any case, I agree that it would be inappropriate.
23. Mrs J also says her "forced absence", caused by DWP's treatment of her and its refusal to make reasonable adjustments, an issue she is pursuing elsewhere, is impacting adversely on her pension forecast. However, there is insufficient evidence that Mrs J raised this issue under her complaint. Moreover, Mrs J was informed by our service, back in May 2018, that we would not consider any issues that were under consideration in other forums. Therefore, I make no finding on this issue.
24. Mrs J says that, as at October 2018, MyCSP/ DWP still held incorrect records for her, despite previously assuring her everything had been corrected. She says this was dishonest and a breach of the Civil Service Code. However, there is no sign that either DWP or MyCSP deliberately informed Mrs J that her record had been corrected when they knew that was untrue. Moreover, as MyCSP confirmed in January 2019, it was likely to take a few months for any updates to be reflected on her record. My

awards are made by reference to this Office's published guidance for "non-financial injustice", which is available on our website. The Civil Service Code is the statutory basis for governing the Civil Service; breaches of this code are not in my jurisdiction to remedy.

25. Mrs J says that, after numerous emails and phone calls, DWP has still not sent her the information she requires, and this has caused her a great deal of stress. She has provided various documents in support of this, which I have considered. I have sympathy with the position Mrs J is in. However, on the balance of probabilities, I do not find that Mrs J's current medical conditions are the result of the issues she has raised under this complaint.
26. Mrs J says: "Because of what DWP unjustly inflicted upon me (currently being pursued elsewhere), I have suffered Depression, anxiety, fear, isolation, directly leading to lengthy absence from work (when my previous decades of service to DWP had been exemplary)." There is evidence in the submissions Mrs J has provided, that her medical conditions pre-dated the wrongful dismissal, re-instatement and re-enrolment. For example, an occupational health report from March 2018 says: "[Mrs J] perceives that her stress is wholly work related however there are some personal issues which have impacted her mental health for several years and which have been exacerbated by the work situation." I do not find that Mrs J's health issues were caused by the specific pension maladministration.
27. Mrs J re-iterates that, because DWP/MyCSP have still not provided updated statements, she is unable to plan for retirement. Mrs J should not have been enrolled into the wrong section of the Scheme; and, once that had happened, the error should have been put right, with corrected statements issued, within a reasonable period of time..
28. Mrs J says the DWP has not paid her a performance bonus she is entitled to. This will adversely affect the level of her pension, insofar as any bonus is pensionable. However, there is no sign that Mrs J raised this issue as part of her complaint to DWP/MyCSP. Therefore, I make no finding on it here.
29. Mrs J says she would have expected a higher award than the £1,000 recommended by the Adjudicator. This is because of (a) the length of time that this matter had been going on; (b) the "obstruction to transparency and honesty, breaching of the Civil Service Code, failing to provide breakdowns when requested, and failing to make her aware of IDRP"; (c) the "significant and ongoing" levels of distress, which had led to ongoing health issues; (d) the fact her case had still not been resolved; and (e) the fact that DWP's acts and omissions meant she had been left in a state of "limbo". However, I agree that an award at the "serious" level, that is, £1,000, is sufficient in the circumstances. For the reasons I have outlined above in paragraphs 25 and 26, I do not find an award at the "severe" or "exceptional" levels is justified. I do not make light of the medical issues Mrs J is facing. However, this complaint is limited to considering the pension issues Mrs J raised with DWP and MyCSP (and direct consequences therefrom).

30. The crux of Mrs J's responses to the Opinion is, she still has not been provided with an updated statement showing she is back in the correct position; and, the level of award is insufficient. However, as confirmed by the Cabinet Office, DWP and MyCSP have agreed to provide updated statements. Moreover, for the reasons I have given, I find that an award of £1,000 is appropriate in the circumstances.
31. Therefore, I uphold Mrs K's complaint against DWP, but not against MyCSP.

Directions

32. Within 21 days of the date of this Determination, DWP shall:-

- Provide MyCSP with the correct and up to date information it requires in order to provide Mrs J with an updated statement based on: (i) her correct service record; (ii) correct breaks in service; and (iii) correct salary at the relevant times, if DWP has not provided this to MyCSP already.
- Pay Mrs J £1,000 in respect of the serious distress and inconvenience caused to her by the original error, and its subsequent failure to provide correct information in order to show that this had been rectified.

Anthony Arter

Pensions Ombudsman
28 February 2019

Appendix

1. "Being erroneously put on the less favourable Alpha Pension instead of my normal Classic Pension Scheme. Please provide calculations/dates of the financial consequences, how rectified, breakdown.
2. The erroneous detrimental to me 10 year service break, when I actually continued to contribute has been acknowledged but the 'before' and 'after' pension statement I was informed I would receive has still not been provided to me.
3. Clear, transparent explanation of what happened for the years 85/86, 86/87?
4. Please explain the lower figure provided for 17/18 when the email was only written in July 2017.
5. The transparent formula/calculations used with when (timing) of when I can receive the refund of the compulsorily deducted dependents/widow/ers payments since I have been on my own for many years and do not see this changing in the future."