

Ombudsman's Determination

Applicant	Mr N
Scheme	Police Pension Scheme 1987 (the Scheme)
Respondent	Metropolitan Police Service (MPS)

1. I do not uphold Mr N's complaint and no further action is required by the MPS.

Complaint summary

2. Mr N complains that he was not provided with information in 1973 about increasing the widow's pension payable from the Scheme in the event of his death. Mr N would like the widow's pension payable to be based on one half of his pension using all his police service and not just the period from 1 April 1972 onwards.

Background information, including submissions from the parties

3. Officers who joined the Scheme before April 1972 were entitled to a widow's pension that equalled a third of their own pension. From April 1972, officers were entitled to a widow's pension that would equal half of their own pension.
4. On 10 April 1973 a police order was issued informing officers of an option to buy in service prior to 1 April 1972. This meant that officers had the option to increase their pension contributions to increase their widow's pension. Officers were required to complete option forms to indicate if they wanted to increase contributions. Chief Superintendents and senior officers were instructed to send the completed forms received from all eligible officers and submit a certificate to confirm that all option forms had been returned to the pensions department. Mr N does not recall receiving or being made aware of this at the time.
5. Mr N became aware that officers who joined the MPS prior to 1972 had been given the opportunity to increase pension contributions to allow widows to receive half of their pension after reading an article in March 2018.
6. Mr N contacted Equiniti, the Scheme Administrator, who told him the widow's pension payable in the event of his death would be £1,567.65 a month, but that it would have

been £1,658.49 a month if he had increased contributions in April 1973. Equiniti also said that:

- It held no copies of how officers were offered the opportunity to increase contributions.
- It would have been the officers' responsibility to make enquiries directly.
- Mr N did not increase his contributions at the time and he could no longer increase his widow's pension.

7. Mr N complained under the Scheme's internal dispute resolution procedure (**IDRP**) that he was not informed of the opportunity to increase his pension contributions. The MPS' response was:-

- The 1973 Police Orders which all officers were required to read, include an order entitled, "Option to buy in service prior to 1st April 1972, for widow's pension purposes" dated 10 April 1973.
- It no longer held any records as the policy file was destroyed in 2003, after 30 years, as all officers affected by this matter would have been expected to raise queries about the calculation of their pension at the time of their retirement.
- It was unable to confirm exactly how the communications would have happened as 45 years have passed.
- Many officers had taken up the offer and this was recorded on their file. However, this was not recorded on Mr N's file and his benefits have been calculated in line with the Scheme regulations and the information available in his personal file.

8. Mr N appealed the decision as no evidence had been provided to show that he was informed of his eligibility to increase his pension contributions.

9. At IDRP stage two, MPS said that:-

- The process of informing officers was described in the Police Order of 10 April 1973. A home office booklet and an option form was sent to every serving officer with an instruction for them to read the information and return the form by 30 June 1973. Chief Superintendents were given a key role in overseeing the whole exercise, including the submission of a signed certificate to the pension department confirming that every policeman under their command had received the booklet and returned their completed form.
- It had no reason to believe that Chief Superintendents did not follow the instructions and it had not received any similar complaints from ex-officers.
- If Mr N had a query about his pension, it should have been raised when he retired in 1995 and the policy files would have been available.
- There is no discretion to allow Mr N to buy back further widow's pension, nor does it have the authority to increase the award payable to his widow.

10. Unhappy with MPS' response, Mr N brought his complaint to The Pensions Ombudsman (TPO). He said that:-

- He had retired from the MPS in 1995 after 30 years of service and he believed his widow's pension would be half of his own.
- He had recently discovered that his wife would receive £1,000 per annum less than he had thought.
- He had been told that his file had no indication that he had increased pension contributions and neither did his central record of service (**CRS**).
- There was no evidence to show that he was consulted about the option to increase his pension contributions and he was not aware of the 1973 Police Order.
- He had been told that officers in his division had their CRS stamped to show whether they had decided to increase their pension contributions.

11. In its response to TPO, MPS said that:-

- The 1973 Police Order outlined the process for Chief Superintendents to follow and it had no reason to suspect the process had not been followed.
- Mr N had referred to the stamps placed on some CRS that indicated whether an officer had chosen to increase contributions to increase their widow's pension. It acknowledged that this may have happened in some boroughs, but it was not an official part of the process detailed in the 1973 Police Order.
- Under the Scheme regulations, it had no discretion to allow Mr N to buy back further widow's pension for his wife or to increase the award payable to her.

12. Mr N made the following additional comments:-

- The MPS should still hold records to show whether he was given the opportunity to increase his pension contributions and its failure to hold them is a breakdown of a duty of care.
- MPS keeps all officer's CRS in their archives and it should be able to check to see if stamps were applied to his division's records.
- The Home Office would not have specified a process for ensuring that all officers were properly informed or for recording what decision was made.
- At the time of the exercise he was a Clapham officer and had spent a lot of time working in Brixton which may explain why he was missed out of the exercise.

Adjudicator's Opinion

13. Mr N's complaint was considered by one of our Adjudicators who concluded that no further action was required by MPS. The Adjudicator's findings are summarised below:-

- The 1973 Police Order showed that all officers at that time were required to complete an option form and it was the Chief Superintendent who had the

responsibility to confirm all forms had been returned. As there was no evidence to dispute that Mr N had received the option form, on the balance of probability, the Adjudicator thought that Mr N was made aware of the option to increase his pension contributions.

- The MPS had kept records until 2003 when all the affected officers would have had their pension in payment. It was not unreasonable for MPS to no longer hold records.
- As the records did not show that Mr N had chosen to make additional contributions, he was not entitled to have his widow's pension increased to half of his pension for the full 30 years of his service.

14. Mr N did not accept the Adjudicator's Opinion and the complaint was passed to me to consider. Mr N 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 N for completeness.

15. Mr N made the following comments:-

- The Adjudicator's findings centred on claims that there was no available evidence.
- There is evidence to show whether officers had decided to increase their contributions. If the CRS were produced, they would show that officers in his division, who had been given the opportunity to increase their pension contributions, would have their CRS stamped to show their decision.
- As a duty of care, the MPS should produce and examine the available CRS.

Mr N also provided a copy of the CRS for two other officers. Both had been stamped to show whether they had decided to increase their pension contributions.

16. The MPS provided a copy of the original pension calculation carried out on 29 August 1995, shortly before Mr N retired on 3 September 1995. Under the widow's pension calculation, it shows Mr N's service prior to April attracted a rate that was equal to a third of his pension.

Ombudsman's decision

17. The opportunity for Mr N to uprate the widow's pension payable on his death was a matter that occurred more than 40 years ago and so there is limited information available to determine what happened at the time. The Police Order from 1973 outlines the procedure to be followed. It states that all officers were to complete an option form and return this to their Chief Superintendents who had to sign to confirm they had received completed forms from all officers. The MPS has explained that it destroyed its records relating to uprating after 30 years, as all affected officers would have by that time been in receipt of their pension. I do not consider it unreasonable for the MPS to no longer hold the original records from 1973.

18. Mr N says that evidence is available in the form of his division's CRS which would be stamped to show whether the officer had chosen to increase their pension contributions. He has asked the MPS to examine them. However, the MPS has said that the stamping of officer's CRS was not an official part of the process outlined in 1973 and that only some officers had their CRS stamped. Mr N has told us that his CRS does not have a stamp. So even if the MPS were to look through its records to see whether other CRS were stamped, the fact would remain that Mr N's CRS is not stamped. Due to the length of time that has passed and given that stamping CRS was not standardised as an official part of the process, I cannot reasonably draw any conclusions from this.
19. The records do not show that Mr N chose to increase his widow's pension by increasing his pension contributions. The pension calculation from 1995 confirms Mr N's pre-1972 service widow's pension was equal to a third of his own. If Mr N had paid the additional contributions to increase his widow's pension, the calculation would have been made at half the rate of his own pension. As Mr N did not increase his pension contributions, he is not entitled to have the widow's pension payable on his death increased to half of his pension for his full police service.
20. I do not uphold Mr N's complaint.

Anthony Arter

Pensions Ombudsman
14 August 2019