

Ombudsman's Determination

Applicant	Mrs Aida Cole
Scheme	Principal Civil Service Pension Scheme (the PCSPS)
Respondents	Capita plc (Capita)

The issue

1. Mrs Cole's complaint is that she is not receiving a pension as the nominated partner of Mr Dawkins, who died in July 2011.
2. The reason that no pension is payable is that there is no record of a declaration form completed by Mr Dawkins and Mrs Cole, and witnessed by a third party, nominating Mrs Cole to receive a such a pension, as the PCSPS rules require. Mrs Cole's entire case turns on whether such a form was completed, but was either lost or not recorded.
3. Mrs Cole says that the form was completed in 2005 when she and Mr Dawkins, along with all staff of the Magistrates Courts Service, transferred from the Local Government Pension Scheme (**LGPS**) to PCSPS (they worked together). At that time the relevant part of the PCSPS was administered by DWP. By the time of Mr Dawkins' death it was administered by Capita. It is now administered by MyCSP, who have not been involved in the complaint at all. Oversight of the Scheme is by Cabinet Office.
4. On 24 February 2015 I held a hearing at which Mrs Cole (assisted by a friend, Ms Newport) gave evidence as did two of her past colleagues who also transferred from LGPS to PCSPS at the same time and who had given written statements saying that they had witnessed relevant forms. Mr Spain of the Cabinet Office was also present to give evidence as to general practice and in order to ask questions of the witnesses.
5. Given that there is really only one point at issue, and that there was a hearing at which both sides were present, I do not think it is necessary for me to set out the background and the arguments in any greater detail.

Findings

6. Having heard the evidence, I am satisfied that it is more likely than not that Mr Dawkins did complete the relevant form.

7. I particularly wanted to hear from the witnesses because there were some ambiguities in witness statements that they had given earlier in the investigation. The statements were not clear how many forms had been witnessed, nor which form or forms were being referred to. As a result, I pressed both witnesses on those points.
8. All the witnesses were sufficiently clear that there were two forms each for Mr Dawkins and Mrs Cole that needed to be witnessed – which would have been one for the lump sum nomination and one for the pension nomination. Although Mrs Cole’s colleagues could not remember whose forms they witnessed, they said that between them they witnessed forms for Mr Dawkins and Mrs Cole.
9. Their evidence was that the partner nomination forms were provided with the pack of information at the time. Mr Spain said that would not be the usual arrangement for a single joiner (they would have to request the booklet containing the form), but he did not know what had happened in 2005 when the Magistrates Court Service staff had moved across. I find that the dependent partner’s nomination form was available for completion at the same time as the other forms.
10. I also find that it is probable that the partner nomination forms were completed properly, by both Mr Dawkins and Mrs Cole. The form is clear enough as to its requirements and it is not likely (particularly since they worked together) that they would have failed to follow the requirements.
11. Mrs Cole gave credible evidence that the forms were posted together, and I accept that as likely. The regulations do not expressly stipulate that nominations should be delivered at all, let alone to anywhere in particular, so it might be argued that mere completion would be enough (though as in this case it would be hard to prove without receipt by the administrator). However, it is more likely than not that post sent to the correct address will arrive at that address. So I find that the forms did all arrive. The only record of them now is a computer record of the lump sum nominations but it does not follow that the fact that the partner nominations were not recorded that they did not arrive.
12. In view of those findings it follows that Mrs Cole is entitled to a pension from the Scheme. The pension will now be administered by MyCSP, but I consider that a direction to Cabinet Office is appropriate in the circumstances.
13. I have considered whether Mrs Cole should receive compensation for the distress she has been caused by the non-payment of pension. However, whatever the reason that the nomination was not recorded is, it was not the fault of Capita. But Capita were responsible for several delays in dealing with the matter after Mrs Cole made her complaint and, in previous correspondence, have agreed to make a payment of £300 to compensate her for the additional distress caused by that.

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Directions

14. Cabinet Office are forthwith to instruct MyCSP to pay a dependant's pension to Mrs Cole on the basis that she was nominated to receive one by Mr Dawkins. Past instalments of pension are to be paid with simple interest at the rate for the time being payable by the reference banks from the due date to the date of payment.
15. Capita are forthwith to pay Mrs Cole £300.

Tony King

Pensions Ombudsman
25 March 2015