

Ombudsman's Determination

Applicant	Mrs Elizabeth Reynolds
Scheme	Principle Civil Service Pension Scheme (the Scheme)
Respondent(s)	1. Cabinet Office 2. MyCSP

Complaint summary

Mrs Reynolds has complained that she did not receive lump sum payments of £673.46 and £2,736.75 made in 2001.

Summary of the Ombudsman's determination and reasons

The complaint that she did not receive the lump sum payment of £673.46 should not be upheld because on balance it is more likely than not that this sum was paid to her.

The complaint that she did not receive the lump sum of £2,736.75 cannot be investigated because she was aware of this matter for more than three years before she brought her complaint to me.

DETAILED DETERMINATION

Material Facts

1. Mrs Reynolds has been in receipt of an ill health pension from the Scheme since 2000. In addition to a pension she received a lump sum of £8,954.06.
2. In 2001 Mrs Reynolds' made an application for an injury benefit under section 11 of the Scheme. The application was considered by the Scheme's medical adviser who on 16 May 2001 wrote to MyCSP supporting her application for a permanent injury allowance and confirming that the degree of her impairment of earnings capacity, solely attributable to her injury, was 25% - 50%.
3. Mrs Reynolds was informed by telephone on 30 May 2001 that the Scheme's medical adviser had agreed to an industrial injury award. On 31 May 2001 Mrs Reynolds was informed that the degree of her impairment, as assessed by the Scheme's medical adviser, was 25% - 50%.
4. On 3 June 2001 the Scheme wrote to Mrs Reynolds confirming that the medical adviser had agreed that she was entitled to an industrial injury award. She was informed that she was eligible for a "Conditional Allowance" and a lump sum payable with effect from the date of her medical retirement. She was asked to provide details of the social security benefits she was receiving so that the further benefits due to her from the Scheme could be calculated. Mrs Reynolds says that this letter was faxed to her husband's office on 5 June 2001, but at the time another letter was in the copier and the letter from the Scheme got superimposed on it.
5. I have seen a copy of the fax of 5 June 2001 from which it was possible to read that Mrs Reynolds was eligible to receive a "Conditional Allowance" and a lump sum.
6. On 12 June 2001 the Scheme wrote to Mrs Reynolds informing her that the superannuation award had been revised to take account of the retrospective increase in pensionable pay and increased pensionable service due to the extension of sick pay. The letter set out a calculation of the payment due taking into account the lump sum of £8,954.06 which had been paid to her in 2000. She was informed that the amount payable was £673.46 and payment would be made by Paymaster, the administrators of the Scheme at that time, in due course. Mrs Reynolds says that she did not receive this letter.

7. A CSP1a form shows a net amount due after “WPS” of £9,627.52. After deducting the amount already paid of £8,954.06, this left a balance due of £673.46 payable from 26 August 2000. The form also shows that the calculation and issue date to be 12 June 2001.

8. On 14 June 2001 the Scheme wrote to Mrs Reynolds. She says that she did not receive this letter. The letter informed her:

“The amount of the conditional injury award is the difference between a civil servant’s minimum income guarantee (MIG) and specified other income. This other income is that which the civil servant receives and certain social security benefits, occupational pension, insurance schemes, salary and sick pay at pension rate.

...Using the advice of [the Scheme’s medical adviser] and your length of service the MIG is 60% of your actual pensionable pay.

The calculations are as follows

1. From 26.08.00 (ie the date following medical retirement)
Pensionable Pay = £10947.02 (at year ending 26.08.00)
Reckonable Service = 22yrs 127 days
MIG is 60% of £10947.02 = **£6568.21 pa**
Less income at 26.08.00
PCSPS Pension = £3771.73 p.a
Incapacity Benefit = £3891.63 p.a (£74.80 p.w x 52.1666)
= £7663.35 p.a

You can see from the calculations that a conditional injury award is not payable from 26.08.00 because your PCSPS pension plus social security benefits exceed the MIG.

2. Because your medical retirement was connected to your industrial injury you also have entitlement to a one off lump sum which is equal to ¼ of the pensionable pay
 $£10947.02/4 = £2736.75$

9. A summary of award form IB1 dated 14 June 2001 shows a lump sum award of £2,736.75.

10. A note of a telephone conversation between Mrs Reynolds and the Scheme on 18 June 2001 reads:

“Phone call from Mrs Reynolds wanting to know what % Drs had awarded (Exact %) explained how we calc all figures – asked for copies of letter from BMI – sent as detailed in letter”

11. On 18 July 2001 Mrs Reynold's MP wrote to her employer saying she had said that even though the Scheme's medical adviser had stated that her impairment was solely attributable to her injury, and is rated between 25%-50%, she did not qualify for any payment because she was in receipt of a pension and an incapacity benefit. These combined to 60% of her minimum earnings potential. He asked for an explanation as to why the calculation was based on minimum and not maximum earnings. He said that he had been advised by her that under the industrial injuries benefit scheme, industrial incapacity benefit and pension should not be taken into account when awards are made and asked why these benefits were taken into account in her case.
12. Mrs Reynolds' has provided three statements from Santander Bank, in respect of a bank account she and her husband have with them. She says that these statements are evidence that she did not receive the two lump sum payments in 2001. The statements are for the periods 1 January to 16 April 2001, 1 June to 30 September 2001 and 1 January to 31 December 2001. All statements show a balance brought forward from the previous statement and carried forward to the next statement of £156.67.
13. Mrs Reynolds took her complaint through the Scheme's internal dispute resolution procedures, but was unable to resolve the matter so she brought her complaint to me.

Summary of Mrs Reynolds' position

14. She was not aware that the lump sums had not been paid until she queried her pension in March 2013.
15. The letter of 3 June 2001 states that she will receive an allowance and a lump sum, but her conversation with the Scheme on 18 June 2001 dispelled that. There is nothing in the note of her conversation that to suggest that any benefit, or lump sum, would be paid. She would have followed up on the payments had she known about the benefits.
16. She said that she had received copies of letters from Capita, the current administrators of the Scheme, suggesting that the payments were paid by electronic transfer. However, the documents she received were not electronic transfers but some sort of computer records.

17. Capita say that the paperwork for the missing payments were destroyed by Paymaster, but they themselves put the records on the microfilm that they inherited, and for which they were legally responsible, before destroying the paperwork.
18. It is strange that all the paperwork referring to the sum of £8,954.06 is present and only the paperwork referring to the disputed payment is missing.
19. She is entitled to accurately maintained records with a proper audit trail. None of the questions she has asked Capita have been answered.
20. She does not believe that her MP's letter of 18 July 2001 recited any information other than that contained in the Scheme's medical adviser's letter of 16 May 2001. Her MP had spoken to her at length about the minimum income guarantee equating to 60% of her minimum rather than her maximum earnings. She thinks that this was knowledge he had gained from dealing with these matters.
21. She is told by her bank that the reason why the statements show £156.67 each month is because this is an average each month. Therefore, any large deposits would have shown up.

Summary of Cabinet Office's position

22. The evidence they found indicated that Paymaster made the correct payments to Mrs Reynolds when they became due.
23. They believe that the onus is on Mrs Reynolds to prove that she did not receive those payments. Saying that she does not recall getting them is not enough to persuade them that Paymaster did not pay them.
24. Mrs Reynolds refers to missing/destroyed papers. However, she has not said exactly what papers she believes is missing/destroyed or exactly how their absence affects her. All the award papers are available. They do not believe that anything is missing.

Conclusions

25. Dealing first with the lump sum of £2,736.75, Mrs Reynolds acknowledges that the letter of 3 June 2001 told her that she would receive an allowance and a lump sum. However, she says that the telephone conversation she had with the Scheme on 18 June 2001 dispelled that and there is nothing in the note of the conversation that says that a payment would be made. The telephone note of her conversation with the Scheme did not say one way or the other whether a benefit would be paid, but

the letter of 3 June 2001 did tell her that she would receive an allowance and a lump sum. Taken together, it is reasonable to say that she ought to have known that benefits were due to her.

26. Mrs Reynolds says that she did not receive the letter of 14 June 2001. However, the letter of 18 July 2001 from her MP to the Scheme appears to recite information contained in the 14 June letter such as the minimum income guarantee being 60% of her pay and the fact that pension and incapacity benefits she received were taken into account when calculating the injury award. This leads me to believe that on balance her MP had either seen or been made aware of the contents of the letter of 14 June 2001. The likely source of this information would be Mrs Reynolds.
27. Mrs Reynolds says that the only copy of a letter her MP received was the letter of 16 May 2001. She thinks that her MP had gained knowledge about the minimum income guarantee from dealing with these matters. It is not only the minimum income guarantee that her MP refers to in his letter; he also mentioned that she had discussed with him that industrial incapacity benefit and pension should be taken into account when awards are made, and this is also referred to in the letter of 14 June 2001.
28. Mrs Reynolds admits that she was aware in 2001 that she should have received an allowance and a lump sum. There is nothing that leads me to believe that she was informed otherwise. Under Regulation 5 of The Personal and Occupational Pension Schemes (Pension Ombudsman) Regulations 1996 (SI 1996 No. 2475), (the **1996 Regulations**), I cannot investigate a complaint received more than three years after the applicant became aware (or reasonably ought to have become aware) of the matters complained about. In some cases, I can investigate applications received outside the three year time limit if there are satisfactory reasons why the application was not made earlier. However, this is not Mrs Reynolds' case. She says that she was not aware of the missing payments until March 2013.
29. As Mrs Reynolds was aware in 2001 that she was entitled to receive an allowance and lump sum, if she received no payment at the time, she should have brought her complaint by 2004 at the latest. The fact that she did not bring her complaint to me

until 2014, 10 years later than she should have, means that I am unable to investigate this part of her complaint.

30. I now turn to her complaint about the lump sum of £673.46 which she says she also did not receive in 2001. To substantiate her claim Mrs Reynolds has provided copies of three bank statements from 1 January to 31 December 2001 of an account she and her husband held with Santander Bank. All three statements show a figure of £156.67 brought forward from a previous statement and carried over to the next statement. There appears to be no trail of monies going in or out of this account to suggest that the account was active in 2001.
31. Mrs Reynolds says that she was informed by her bank that the figure of £156.67 is an average monthly figure, and therefore any large deposits should have shown up. The statements do not say that the figure of £156.67 is an average balance. However even if it was an average balance, I would expect to see a variation from one month to another as the average is calculated over the month.
32. Mrs Reynolds says that she did not receive the letter of 12 June 2001. However, that letter and the CSP1a form both confirm that payment of a lump sum of £673.46 was due. There is no conclusive evidence that the lump sum was paid. However, there is sufficient evidence for me to conclude that it is more likely than not that the lump sum of £673.46 was paid.
33. For the reasons given above, I do not uphold the complaint against the Cabinet Office or MyCSP in respect of this part of Mrs Reynold's complaint.

Jane Irvine

Deputy Pensions Ombudsman

5 March 2015