

Ombudsman's Determination

Applicant	Ms N
Scheme	Principal Civil Service Pension Scheme (the Scheme)
Respondents	Cabinet Office HMRC MyCSP

Outcome

1. I do not uphold Ms N's complaint because Cabinet Office recognised what had gone wrong and made what I consider to be an adequate award at the conclusion of the IDRP process.
2. My reasons for reaching this decision are explained in more detail below.

Complaint summary

3. Ms N has complained about the delays and poor service she experienced when seeking the immediate payment of her pension benefits.

Background information, including submissions from the parties

4. Ms N was employed by HMRC.
5. In 2014, Ms N was suffering from various health issues which caused her to intermittently take time off work.
6. On 14 October 2014, MyCSP wrote to Ms N enclosing an annual benefit estimate, which assumed a leaving date of 31 October 2014.
7. In a meeting on 23 October 2014 with HMRC, it was recommended that Ms N end her employment. Her final day of service would be 2 March 2015.
8. A note from Ms N's manager, produced after this meeting, states that ill health early retirement was discussed but in view of Ms N's acute stress, dismissal was considered the most expedient solution. It was also noted that, in the opinion of HMRC's Human Resources Business Partners and Ms N's Public and Commercial Services Union (**PCS**) representative, compensation from her dismissal would most

likely be sufficient to allow her to purchase the cost of the actuarial reduction, to provide her an immediate unreduced pension.

9. On 5 November 2014, Ms N made a request through HMRC for her benefit statement and an estimate of the cost of buying out any actuarial reduction. She had initially considered using the online calculator on MyCSP's website, however the information attached to this said that Premium members who had joined in 2002 should make a separate request through their employer.
10. On 15 November 2014, Ms N received a reply saying that her request had been refused due to a high demand on the service. Ms N was referred to MyCSP's online calculator.
11. On 25 November 2014, Ms N sent an email to MyCSP setting out the arrangements which she wished to be put into place in regard to taking a pension and buying out the reduction, after her final day of service.
12. On 1 December 2014, Ms N says she was told by MyCSP that her request would be disregarded as she was retiring rather than being dismissed. Ms N queried this and says that HMRC's HR Service Centre, having spoken with MyCSP, informed her that as she had been dismissed and was a member of the Premium scheme, she would not be able to buy out any of the actuarial reduction.
13. On 10 December 2014, it was confirmed that the information given by MyCSP was incorrect; Ms N could use her compensation award to buy out the actuarial reduction which would be applied to her pension. Ms N was told that she should make an application under Rule D.3 of the Civil Service Compensation Scheme rules applying to Premium members (**the Regulations**). Ms N did this on 11 December 2014.
14. On 6 January 2015, Ms N spoke with MyCSP, who said that the calculations on her compensation award could not be performed until April or May 2015. It was also suggested that she use the online buyout calculator as a rough guide on the cost of buying out the actuarial reduction. Upon doing so, she realised that the compensation award would not be sufficient for this purpose.
15. Ms N says that she approached a financial adviser about the buyout but he was unable to help due to the lack of information on her pension entitlement.
16. On 4 February 2015, she wrote to HMRC about whether she could make a retrospective application for ill health retirement.
17. On 8 February 2015, Ms N was sent a letter from MyCSP which said that it would process her compensation award at the beginning of March 2015.
18. Ms N says that due to the contradictory dates on this, she was referred to the Head of Equality, Pay and Pensions at the PCS. She was at this point made aware of an option under Section 11.6 of the Civil Service Compensation Scheme, which allowed

a member to be treated as an 'Approved Early Leaver' and forego the compensation award for an immediate unreduced pension.

19. In mid-February 2015, the Cabinet Office's Pensions Policy Team confirmed that Ms N could make such an election. Ms N did so on 18 February 2015.
20. On 23 March 2015, MyCSP sent Ms N a letter explaining that the election could not be accepted as she was a member of the Premium Scheme; the rule only applied to Classic scheme members.
21. On 29 April 2015, a PCS representative explained that MyCSP was relying on Employer Pension Notice (**EPN**) 299 which it had not been consulted on. The Cabinet Office was approached again for clarification.
22. On 26 May 2015, Ms N received a voice message from MyCSP saying that her compensation award had been processed. Ms N queried whether this was appropriate in light of the ongoing dispute.
23. After further exchanges of correspondence, Ms N made a complaint under the Scheme's Internal Dispute Resolution Procedure (**IDRP**).
24. On 8 October 2015, MyCSP responded under stage one of the IDRP. It said: -
 - There was no indication that Ms N had been advised that her compensation award would be sufficient to buy out any reduction in her pension.
 - Although Ms N did not have the opportunity to consider the buyout option until much later, this did not change these figures nor did it affect whether the compensation would be sufficient.
 - The complaint was not upheld; Ms N was paid the correct benefits based upon the initial decision of her employer and the options she chose.
25. Ms N appealed this decision.
26. In a subsequent letter, MyCSP addressed the additional points which Ms N had raised, and said it would forward the appeal to the Cabinet Office.
27. On 14 April 2016, the Cabinet Office provided a response under stage two of the IDRP. This concluded that from the outset, when Ms N was seeking to leave her employment, confusion prevailed around her options, she was provided with contradictory and confusing information "at every turn." It said that MyCSP and the Cabinet Office must each pay her £500 for the distress and inconvenience caused by the handling of her case. In April 2017, Ms N was notified that she had been awarded ill health early retirement with effect from 2 March 2015. She received a payment for this in July 2017.

28. Ms N's complaint was considered by one of our Adjudicators who concluded that no award was required by HMRC and agreed that no further award was warranted by the Cabinet Office or MyCSP. The Adjudicator's findings are summarised briefly below: -

- On several occasions, Ms N had been provided with contradictory information. For example, HMRC had suggested that Ms N could use her compensation award to buy out the actuarial reduction in an immediate pension, rather than apply for ill health early retirement. However, this information was incorrect because it transpired that the award would not be sufficient.
- From telephone calls with MyCSP, Ms N was left with the impression that she would not be able to buy out the actuarial reduction because she was a member of the Premium Scheme, which was later corrected.
- The Cabinet Office initially confirmed that Ms N could use Rule 11.6 of the Regulations to forego her compensation award and receive an immediate pension, however this Rule had been withdrawn.
- MyCSP gave contradictory information regarding the date on which the compensation award would be paid, then made the payment during an ongoing dispute.
- In the first instance, MyCSP was unable to provide the estimate which Ms N requested, which led to the uncertainty which ensued on whether she could buy out the actuarial reduction.
- The above errors occurred whilst Ms N was suffering from an ongoing illness and others which came about, compounding the distress and inconvenience caused to her by this matter.
- The appropriate award for the distress and inconvenience which Ms N had suffered would be £1,000. The Cabinet Office had already made such an offer on behalf of itself and MyCSP.
- Although HMRC had incorrectly suggested that the compensation award would be sufficient to buy out the actuarial reduction, this statement was not unequivocal and it appears that it was merely providing guidance at that point. A further distress and inconvenience award, paid by HMRC, was not warranted.

29. The Cabinet Office, MyCSP and HMRC accepted the Adjudicator's Opinion. Ms N did not accept the Adjudicator's Opinion and made the following comments: -

- The Adjudicator's Opinion did not adequately reflect the worry and stress caused during the two years and seven months it took to access her pension and the impact this had on her health.
- The situation had transpired due to MyCSP's refusal on 15 November 2014 to provide a retirement quote. The subsequent errors and misinformation were incidental.
- MyCSP's refusal to provide the quote left her in the unacceptable position of being wholly reliant on advice provided by PCS representatives.

- Ms N wished to receive her pension immediately as she intended to relocate in order to be closer to family friends whilst she recovered from her illness and to help with caring for her mother. Instead, she had been left to do this without any assistance or support, which would have been available had she had been financially able to move.
- As it stood, because her health had deteriorated, she is not currently able to move. The additional worry and stress caused by this matter had substantially contributed to this deterioration.

30. The complaint has been passed to me to consider. I agree with the Adjudicator's Opinion and I will therefore only respond to the key points made by Ms N for completeness.

Ombudsman's decision

31. Ms N left work in March 2015 with the intention of receiving an immediate pension; she did not receive this until July 2017. I do not doubt that this delay would have been stressful for Ms N, particularly when considering her health issues and the care needs of her mother.
32. Furthermore, it appears that Ms N was proactive in making arrangements to receive her pension, but in doing so, was met with incorrect advice, contradictory information and general maladministration on the part of both MyCSP and the Cabinet Office. I note that both of these parties acknowledge the errors made.
33. Whilst I am extremely sympathetic to Ms N's situation, I consider that that award of £1,000 made by Cabinet Office was appropriate in the circumstances and there is no further injustice which I can or should remedy.
34. Therefore, I do not uphold Ms N's complaint. This outcome is not intended to detract from the failings admitted by Cabinet Office, but acknowledges the principle that I will not uphold a complaint where the complainant has received an acknowledgement of what went wrong and an adequate remedy before the complaint was made to the Ombudsman. If Ms N wishes to accept the £1,000 which has been put forward by the Cabinet Office, she should contact it to make arrangements for this payment.

Karen Johnston

Deputy Pensions Ombudsman
26 September 2017