

Ombudsman's Determination

Applicant	Mr E
Scheme	Principal Civil Service Pension Scheme (the Scheme)
Respondents	MyCSP Limited (MyCSP)

Outcome

1. I do not uphold Mr E's complaint and no further action is required by MyCSP.
2. My reasons for reaching this decision are explained in more detail below.

Complaint summary

3. Mr E's complaint is that MyCSP must abate his Scheme pension while he continues to accrue further benefits in the Scheme.

Background information, including submissions from the parties

4. On 16 September 2002, Mr E left the Scheme and the Civil Service as an employer. His role was transferred to Babcock as part of an out-sourcing contract and his benefits in the Scheme were deferred.
5. On 1 June 2015, under the 'New Fair Deal' contract, Mr E re-joined the 'Classic' section of the Scheme and began accruing further benefits despite still being employed by Babcock/ Devonport Royal Dockyard Limited (**DRDL**).
6. On 28 November 2016, Mr E telephoned MyCSP to query his pension entitlement. MyCSP says that it told Mr E abatement would apply to his pension while he contributed to the Scheme, as well as what abatement involved.
7. On 6 December 2016, MyCSP wrote to Mr E and enclosed an abatement information leaflet.
8. On 12 January 2017, Mr E telephoned MyCSP to further query whether his pension should be abated. Mr E argued that he was not employed by the Civil Service and abatement would not apply to him. After a long discussion, the representative of MyCSP agreed with Mr E that he was not a civil servant and consequently his pension should not be abated.

9. On 9 March 2017, MyCSP sent Mr E a retirement quote, as at 14 May 2017.
10. On 20 March 2017, Mr E returned his completed retirement forms together with a statement that maintained that he was employed by DRDL and had not been re-employed by the Civil Service.
11. On 8 May 2017, MyCSP sent Mr E a finalisation statement which illustrated the value of his pension at retirement.
12. On 14 June 2017, Mr E received his Pension Commencement Lump Sum (**PCLS**).
13. On 22 June 2017, Mr E telephoned MyCSP as he had expected to receive his first pension payment. MyCSP said it would investigate the matter and that payment of his pension should be made within 5 working days.
14. On 28 June 2017, MyCSP wrote to Mr E and said that his pension would be fully abated for as long as his pension and salary were greater than the salary used to calculate his previous deferred benefit in 2002 (re-valued up to the present day).
15. On 23 November 2017, after a long exchange of correspondence, Mr E raised a complaint under the Scheme's Internal Dispute Resolution Procedure (**IDRP**). Mr E maintained that abatement should not apply to him as he is not a civil servant and that the information MyCSP provided to him was unclear.
16. On 31 July 2018, MyCSP provided its Stage 2 response under the IDRP. It partly upheld Mr E's complaint in respect of information it provided to Mr E in the telephone call of 22 June 2017. However, it also argued that Mr E's pension can only be paid in line with the Scheme rules and that the information it had provided to him about abatement was "consistent and concise".

Adjudicator's Opinion

17. Mr E's complaint was considered by one of our Adjudicators who concluded that no further action was required by MyCSP. The Adjudicator's findings are summarised below:-
 - The Adjudicator said that he could not consider Mr E's assertion that he was being treated differently to colleagues that shared his circumstances. The Adjudicator said that the Ombudsman's approach is to consider each case based solely on its own merits and facts. Consequently, Mr E's colleagues' situations do not have any bearing on the way the Adjudicator formed a view on Mr E's complaint. The Adjudicator also argued that it is hard to draw meaningful comparisons between members as the calculation of pensions can be complicated.

- The Adjudicator considered that even though Mr E was not employed by the Civil Service, the Scheme's rules did apply to him because he was a member. In the Adjudicator's opinion, as Mr E claimed his deferred pension after he re-joined the Scheme in June 2015 his pension should be abated. In the Adjudicator's view, this approach was in accordance with the Scheme rules and no other course of action was feasible.
 - The Adjudicator noted that MyCSP and DRDL had together offered £1,000 total in acknowledgement of the incorrect information given to Mr E. In the Adjudicator's opinion, £1,000 was appropriate and in line with an award that an Ombudsman would likely make, based on the facts of Mr E's complaint.
18. Mr E did not accept the Adjudicator's Opinion and the complaint was passed to me to consider. Mr E 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 E for completeness.

Ombudsman's decision

19. In his comments, Mr E maintains that he is being discriminated against in that he is being treated differently to other colleagues that are members of the Scheme. However, for the reasons given by the Adjudicator, this Office cannot consider this assertion. Mr E's complaint must be judged upon its own merits and singular facts.
20. I fully appreciate that Mr E was disappointed to ascertain the correct position regarding the abatement of his pension. However, I find that he should reasonably have discovered it much sooner. Mr E was provided with information about abatement in December 2016 and chose to claim his deferred pension in May 2017. Mr E argues that abatement should not apply to him because he is not employed by the Civil Service. However, this point is irrelevant. The Scheme rules apply to Mr E because he is a member of it and for no other reason. Consequently, I find that MyCSP has correctly interpreted the Scheme rules in abating Mr E's pension.
21. Mr E further argues that the misinformation he received has caused him a great deal of stress throughout the process of claiming his deferred pension. However, MyCSP has adequately acknowledged this by offering Mr E £1,000 (£500 each from DRDL and MyCSP) in recognition of the distress and inconvenience he has suffered. This is a level of redress that this Office would typically award for serious maladministration on the part of a respondent. Awards made for non-financial injustice are typically modest and I find that MyCSP has made an appropriate offer in view of the facts of Mr E's complaint. Mr E should contact MyCSP directly if he would like to accept its offer.

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22. I do not uphold Mr E's complaint.

Anthony Arter

Pensions Ombudsman
30 January 2019