

Ombudsman's Determination

Applicant	Mrs N
Scheme	Teachers' Pensions Scheme (TPS)
Respondents	Teachers' Pensions Department for Education (DfE)

Outcome

1. I do not uphold Mrs N's complaint and no further action is required by Teachers' Pensions or DfE.

Complaint summary

2. Mrs N is complaining that she is not receiving the full widow's pension following the death of her husband, Mr N. Instead she is only receiving a partial benefit based on service from 1972 to 1982, rather than for all of her husband's teaching service.

Background information, including submissions from the parties

3. On 1 April 1966, the Widow's and Children's Pension Scheme (**WCPS**) was introduced as a separate arrangement from the TPS. This allowed male teachers to pay additional contributions (2% on top of the 6% being paid into the TPS) to provide benefits on the member's death to dependents.
4. The WCPS was wound up following a change to the TPS regulations from 1 April 1972. The change meant that dependents benefits would form part of the TPS, rather than a separate arrangement. Members who had not been contributing to the WCPS were offered the opportunity to elect to cover service prior to 1 April 1972 by making additional contributions.
5. Mr N completed the paperwork to retire on 3 June 1982, with effect from 31 August 1982. On the retirement form, Mr N was asked a series of question relating to his war service. In relation to the question "Have you covered all your service for family benefits?", Mr N ticked the box "NO". The next question was, "If 'Yes' do you wish to cover your war service for family benefits". Mr N ticked "NO".

6. Following completion of the retirement forms, Mr N was sent a pension statement. It stated that Mr N would receive an initial annual pension of £4,631.65 and a lump sum of £13,592.56 based on service of 31 years and 203 days. Mrs N was named as the beneficiary, with a potential annual pension of £766.04, with no mention of a lump sum payment.
7. Mr N died on 26 November 2018. Following his death and the confirmation of her widow's benefits, Mrs N raised a complaint with Teachers' Pensions on 17 February 2019, regarding the level of her benefits and the non payment of a lump sum.
8. Teachers' Pensions replied on 4 March 2019. It explained the background to dependent's pensions within the TPS. It also confirmed that at his retirement, Mr N had accrued 10 years and 160 days of dependent's benefits, but he had not elected to pay any additional contributions for service before 1972. Therefore, Teachers' Pensions could only pay benefits based on the contributions paid, which explained why the widow's benefit was less than half of Mr N's annual pension prior to his death.
9. Mrs N decided to instigate the internal dispute resolution procedure; she received a decision from DfE on 1 August 2019 not upholding her complaint. The DfE noted that not many members chose to pay additional contributions prior to 1972, as this was costly, hence it was not unusual that there was no record of Mr N paying additional contributions. It reconfirmed Teachers' Pensions' point that the retirement statement sent to Mr N in 1982 reflected the correct position in relation to the benefits to be paid to Mrs N on his death.
10. As part of the investigation, Mrs N offered to pay any additional contributions in order to receive the full widow's pension. She also stated that at the time her husband retired, she was in ill health and this would have had an affect on the decisions that were made at the time. Teachers' Pensions confirmed that the TPS regulations do not allow for additional contributions to be paid after retirement, either by a pensioner or a dependent.

Adjudicator's opinion

11. Mrs N remained dissatisfied with the response to her complaint and referred the matter to The Pensions Ombudsman (**TPO**). Her complaint was considered by one of TPO's Adjudicators who concluded that no further action was required by the Respondents. The Adjudicator's findings are summarised below:-
 - The retirement forms provided by Teachers' Pensions confirmed that Mr N had not elected to pay any additional family benefits to cover his war service. The statement of his benefits also showed that the widow's pension was much less than half of Mr N's annual pension, with no lump sum payable. This information was available to Mr N at the time he retired and there was no evidence to show that he had questioned it, or had paid any other additional contributions into the TPS.

- The Adjudicator agreed that there was no allowance within the TPS regulations that would allow Mrs N to make any additional payments into the TPS. Teachers' Pensions can only pay the benefits Mrs N is entitled to, regardless of the circumstances surrounding Mr N's retirement. This was not raised with Teachers' Pensions at the time of his retirement and, unless Mr N had paid the additional contributions, it would not ultimately change the decision.
- Even if it was possible to make additional contributions at this point, Mrs N would most likely find that the cost in doing so would be significant and might outweigh the overall benefit she would receive.

12. Mrs N did not accept the Adjudicator's opinion and said:

"It is indeed distressing to find at my age that because my husband failed to make contributions I am left with a very small pension. I have given possible reasons how this happened but apparently these cannot be considered. The outcome would be easier to accept if I was responsible for this myself, but on the grounds that I have to live with my husband's negligence does indeed seem extremely unfair.

... I am not asking for a full widows [sic] pension but an increase in the present one."

13. The complaint has now been passed to me to consider. Mrs N's further comments do not change the outcome. I agree with the Adjudicator's opinion and I will therefore only respond to the points made by Mrs N for completeness.

Ombudsman's decision

14. My role is to put people back in the position they ought to be in, if an error has occurred. In this situation, neither Teachers' Pensions or DfE have acted outside of the TPS regulations, or erred in the way Mrs N's widow's pension has been calculated. Instead, Mrs N feels that her situation is unfair, but, while I recognise this, I cannot direct the respondents to act outside of the TPS regulations and increase Mrs N's benefit.

15. I do not uphold Mrs N's complaint.

Anthony Arter

Pensions Ombudsman
5 December 2019