

Ombudsman's Determination

Applicant	Mr R
Scheme	Principal Civil Service Pension Scheme (the Scheme)
Respondents	MyCSP The Cabinet Office

Outcome

1. I do not uphold Mr R's complaint and no further action is required by MyCSP or the Cabinet Office.

Complaint summary

2. Mr R has complained that MyCSP provided misleading information that meant his potential retirement benefit entitlement could be reduced after transitioning into a new section of the Scheme.

Background information, including submissions from the parties

3. The Scheme is governed by the Superannuation Act 1972 (**the 1972 Act**). Regarding the Premium Scheme within the Scheme, Part A of the related regulations (**the Premium Scheme Regulations**) provides that:-

"A.11 Disregard of short breaks in service

(2) If an active member –

(a) opts to cease to be such a member whilst continuing to be employed in the employment that qualified him to belong to the Scheme, and

(b) after a period not exceeding 6 months becomes such a member again in that employment, any [pensionable] service and qualifying service for the earlier period of active membership and for the later period of such membership is treated as a single period of service...

B.6 Leaving the Scheme

(1) A person who is an active member of this Section of the Scheme may opt to cease to be such a member.

(2) The option may only be exercised by notice in writing to the Scheme administrator in such form as the Minister requires.

(3) A member who is to have a partnership pension account after ceasing to be an active member ceases to be such a member on the first date that is 31st March or 30th September after the period of three months beginning with the date on which the option is exercised or such shorter period as the Minister considers appropriate.

(4) In any other case, a member who exercises the option ceases to be an active member at the beginning of - (a) the first pay period beginning on or after the date on which the option is exercised..."

4. The Alpha Scheme was established as a part of the Scheme under the Public Service (Civil Service and others) Pensions Regulations 2014 and is governed by the related Alpha Regulations. Under the heading 'Transitional Provisions', Part 1 in Schedule 2, Regulation 182 of the Alpha Regulations states:-

"Meaning of 'continuity of service'

2.(1) For the purpose of this schedule, a transition member (T) has continuity of service between pensionable service in [the Scheme] and pensionable service in this scheme ('continuity of service') unless T has a gap in service exceeding 5 years which -

(a) begins on or before T's transition date, and

(b) ends on the day on which T becomes an active member of this scheme..."

5. On 23 December 2016, Mr R emailed MyCSP, the Scheme's administrator and said:-

- His ongoing accrual of retirement benefits was due to transition from the Premium Scheme to the Alpha Scheme on 1 December 2017. He understood that the benefit entitlements would then be split into two parts and be calculated based on each of the applicable scheme regulations.
- His final pensionable salary would be calculated from, or close to, the date on which he left active membership rather than the date of transitioning into the Alpha Scheme. This was a concern because he had earned a higher salary between February 2006 and November 2013 that would not then be considered in calculating the benefits payable under the Alpha Scheme.
- He would like clarification as to whether it would be possible to retain the higher final salary details that would have applied under the Premium Scheme when retiring at age 60. It was unclear whether this could be achieved by electing to opt out of the Scheme, and whether any time limits would be applicable to any such changes.

6. On 18 January 2017, MyCSP emailed Mr R in response and said:-

- Following the transition of Mr R's future benefit accrual to the Alpha Scheme on 1 December 2017, the benefits previously accrued in the Premium Scheme would be retained but his final salary details would be linked to the Alpha Scheme.
 - The final pensionable salary would be based on the best of:
 - Pensionable earnings in the last 12 months; or
 - Pensionable earnings in the best of the last four scheme years; or
 - Pensionable earnings averaged over any period of three consecutive years in the last 13 complete scheme years.
 - This would be calculated backwards from the last day of service, even if Mr R was an Alpha Scheme member at the time.
 - Alternatively, Mr R could elect to opt out of the Premium Scheme for 28 days then re-join to retain a deferred benefit entitlement, and still also transition into the Alpha Scheme for future accrual of benefits from the enrolment date.
7. On 1 February 2017, Mr R telephoned MyCSP to ask for clarification on the process for opting out of the Premium Scheme and the impact that this would have on his pension entitlement at retirement.
8. In response MyCSP confirmed that Mr R could opt out of the Scheme and re-join. Otherwise there would be a final salary link to his last 13 years of service counting back from his retirement date, even if this was from the Alpha Scheme.
9. On 28 February 2017, Mr R emailed MyCSP and said:-
- He wanted clarification on whether there would be a deadline to opt out of the Premium Scheme and re-join after 28 days before the transition to the Alpha Scheme on 1 December 2017, and confirmation this was a requirement to retain deferred benefits in the Premium Scheme.
 - He also required clarification on whether the years of pensionable service used in determining the final salary would be calculated backwards from the date the Premium Scheme benefits went into deferment.
10. On 10 March 2017, MyCSP emailed Mr R and said that if he elected to opt out of the Premium Scheme and re-joined the Scheme in the Alpha Scheme after 28 days, the existing Premium Scheme benefits would not be deferred. This would instead be classed as being in continuous service for the calculation of Mr R's benefits entitlement. The final salary used for the calculation of benefits would then be linked to the date of leaving the Alpha Scheme.
11. On 12 April 2017, Mr R wrote to MyCSP and complained that it had provided him with contradictory information on 18 January 2017 and 10 March 2017 regarding how he could retain his higher final salary link to the Premium Scheme after transitioning to the Alpha Scheme. Mr R said he would like clarification on that point.

12. On 19 May 2017, MyCSP wrote to Mr R in response and said:-
 - Mr R would need to opt out of the Premium Scheme for at least six months. If he re-joined the Premium Scheme within six months this would be deemed continuous service and establish a final salary link with the Alpha Scheme.
 - If Mr R opted out of the Alpha Scheme after transitioning from the Premier Scheme, there would be a final salary link to the date of leaving the Alpha Scheme rather than when he left the Premier Scheme.
13. On 23 May 2017, Mr R completed and signed an opt-out form (**the Opt Out Form**) to leave the Premium Scheme.
14. On 24 May 2017, the Human Resources Department (**HR**) at HM Revenue and Customs, Mr R's employer, emailed him with a postal address that could be used to send the Opt Out Form.
15. On 6 June 2017, HR received the Opt Out Form and emailed Mr R to confirm that his election to opt out of the Scheme had been processed with effect from 1 June 2017.
16. On 7 June 2017, Mr R wrote to MyCSP and said:-
 - He would like to retain the final salary details linked to the benefits accrued in the Premium Scheme. So, he had signed the Opt Out Form on 23 May 2017. HR had previously advised him that the date he signed the form would also be the effective date used in processing his request to opt out of the Scheme.
 - In the email of 6 June 2017, HR confirmed that he had opted out of the Scheme with effect from 1 June 2017. Since MyCSP had said that he needed to re-join the Premium Scheme six months after opting out and before 1 December 2017, it was unclear whether he needed to re-join the Premium Scheme by 30 November 2017.
17. Mr R has said that he received no response to this enquiry.
18. On 9 June 2017, MyCSP received the Opt Out Form.
19. On 23 June 2017, MyCSP wrote to Mr R and acknowledged receiving the Opt Out Form. MyCSP also said that it required further information from HR before his benefit entitlement in the Premium Scheme could be confirmed.
20. On 6 July 2017, Mr R emailed HR and said that based on information provided by MyCSP he needed to re-join the Premium Scheme by 30 November 2017 to retain the related final salary link at retirement. He asked for clarification on how to do so.
21. On 2 August 2017, HR emailed Mr R in response to his enquiry of 6 July 2017 and said his benefits in the Premium Scheme were deferred and that he would transition into the Alpha Scheme on 1 December 2017. So, it was unclear why MyCSP had suggested that he needed to re-join the Premium Scheme a day earlier.

22. On the same date Mr R emailed MyCSP to ask for confirmation that his benefits in the Premium Scheme had been deferred and that he did not need to opt out for six months then re-join before 1 December 2017 to retain the deferred benefits.
23. On 4 September 2017, MyCSP wrote to Mr R in response and said that to retain the deferred benefits in the Premium Scheme, he would need to join the Alpha Scheme after opting out of the Premium Scheme for at least six months before 1 December 2017.
24. On 13 September 2017, Mr R emailed HR to ask how he could opt out of the Premium Scheme for six months before 1 December 2017.
25. On 19 September 2017, HR emailed Mr R and said:-
 - Mr R had been opted-out of the Premium Scheme with effect from 1 June 2017, the first day of the following month after the Opt Out Form had been received. This was correct and in accordance with current procedures.
 - Mr R could elect to opt out of the Premium Scheme from 24 May 2017, the day after he had signed the Opt Out Form. However, Mr R would need to seek MyCSP's approval for this solution and ask it for confirmation to then be sent to HR.
26. On 20 September 2017, Mr R emailed MyCSP and asked if it would be possible to amend the date he opted out of the Premium Scheme to 24 May 2017.
27. On 18 October 2017, MyCSP wrote to Mr R and confirmed that there was no provision under the Premium Scheme Regulations for a member to opt-out retrospectively, as suggested by HR.
28. On 26 October 2017, Mr R complained under stage one of the Scheme's Internal Dispute Resolution Procedure (**IDRP**) and said:-
 - Over a year previously the Scheme's online member portal had stated that his ongoing benefit entitlement would transition from the Premium Scheme to the Alpha Scheme, meaning that he could lose the advantage of higher earnings being used in calculating his pension entitlement at retirement.
 - In response to his email of 23 December 2016, MyCSP said that he could opt out of the Premium Scheme then re-join after 28 days to avoid that outcome. Following his enquiry of 28 February 2017, MyCSP said that he would not, in fact, preserve the existing benefits based on higher final salary details by re-joining the Premium Scheme after 28 days.
 - In response to his complaint of 15 April 2017, MyCSP said that he would need to opt out of the Premium Scheme for six months then re-join before 1 December 2017. So, he signed the Opt Out Form on 23 May 2017, and posted it to HR on the following day, having received the relevant address.

- He was subsequently opted-out of the Scheme from 1 June 2017. So, he wrote to MyCSP on 7 June 2017 asking for clarification of the date on which he needed to re-join the Premium Scheme to meet the deadline of 1 December 2017 but received no reply.
- He contacted MyCSP again on 2 August 2017 to ask how he could retain his higher earnings for the purpose of calculating his retirement benefits. In its response of 4 September 2017, MyCSP said that he would need to re-join the Scheme after opting out for at least six months before 1 December 2017.
- Following HR's suggestion he asked MyCSP whether it would be possible to amend his opt-out date to 24 May 2017, the day after he had signed the Opt Out Form. But MyCSP said that there was no provision under the Scheme Regulations for a member to opt-out of the Scheme retrospectively.
- MyCSP had previously provided contradictory responses to the enquiries he made and delayed responding to his resulting complaints. His initial complaint and follow-up enquiries were not investigated adequately, causing him distress and inconvenience. As a consequence of MyCSP's poor service it would also not be possible for him to opt out of the Premium Scheme for six months and re-join it before 1 December 2017.
- To put things right MyCSP should retrospectively amend the date he opted out of the Premium Scheme to 24 May 2017. If it did not do so he would suffer financial detriment through no fault of his own. By his calculation, failure to make the suggested amendment would result in a financial loss to his pension entitlement of around £1,000 a year.

29. On 23 January 2018, MyCSP wrote to Mr R in response and said:-

- Rule A.11 of the Premium Scheme Regulations states that a member must have a break in pensionable service of at least six months to avoid it being considered as continuous service. The transition date for future accrual under the Alpha Scheme was scheduled for 1 December 2017. So, Mr R had been required to opt out of the Premium Scheme with an effective date of before 31 May 2017 to comply with the six months rule and defer the benefits previously accrued in the Premium Scheme.
- The information provided in the email of 18 January 2017 was incorrect in stating that there was a requirement to opt out of the Scheme for '28 days'. Following that email, Mr R made several enquiries, which resulted in the identification of previous misinformation having been provided.
- So, in the email of 10 March 2017, it was correctly confirmed that if Mr R re-joined the Scheme in the Alpha Scheme within 28 days of opting out of the Premium Scheme, this would be categorised as continuous service, and he would not be entitled to deferred benefits.

- The email of 10 March 2017 did not provide any guidance as to how Mr R could opt out of the Premium Scheme and retain deferred benefits after joining the Alpha Scheme. Neither MyCSP nor the Cabinet Office, which is the managing authority of the Scheme, is authorised to provide financial advice.
 - MyCSP could have pointed Mr R towards relevant guidance so that he could make an informed decision. The process for opting out of the Scheme and the implications of this had been set out in the Scheme Regulations, employer notices and the Scheme's website which were available to Mr R in any case.
 - Although MyCSP eventually provided appropriate information following Mr R's enquiries, the misinformation previously provided meant that he had insufficient time in which to act and retain deferred benefits in the Premium Scheme.
 - MyCSP is required to act in accordance with the Scheme Regulations. So, it was not possible to retrospectively change the date that Mr R opted out of the Premium Scheme and allow the deferred benefits in the Premium Scheme.
 - Mr R's future earnings and the value of any subsequent pension increases are unknown. So, it would not be possible to accurately calculate any financial loss. However, an award of £500 to Mr R in recognition of the distress and inconvenience caused to him would be appropriate.
30. On 19 February 2018, Mr R emailed MyCSP and asked for clarification on how his benefit entitlement would be calculated if he either re-joined the Scheme in the Alpha Scheme or remained a deferred member in the Premium Scheme.
31. On 20 March 2018, MyCSP wrote to Mr R and said:-
- If Mr R chose to join the Alpha Scheme, his benefits would be calculated as 2.32% of his pensionable earnings per scheme year. The annual Premium Scheme benefits would still be determined by the Regulations governing that part of the Scheme by using a formula of Pensionable service x Pensionable earnings / 60.
 - The Pensionable earnings figure used to calculate the benefits from the Premium Scheme would be calculated as follows:
 - The last 12 months' pensionable earnings; or
 - the highest pensionable earnings in any of the last four scheme years; or
 - the highest average pensionable earnings in any period of three complete scheme years during the last 13 years ending on the last day of service.
 - These periods would be based on the last day of service. If Mr R chose to join the Alpha Scheme within five years of opting out of the Premium Scheme, then the Premium Scheme benefits would be subject to a final salary link to the Alpha Scheme.

- The date for determining the best years' pensionable earnings would be the date of leaving the Alpha Scheme, and not the date of leaving the Premium Scheme. There was no option to re-join the Scheme without being admitted to the Alpha Scheme.
- Members who had been due to transition from the Premium Scheme to the Alpha Scheme could have elected to opt out of the Premium Scheme for a minimum of six months before the transition date. This would have established a deferred benefits entitlement under the Premium Scheme and removed any final salary link to leaving the Alpha Scheme. That option was no longer available to Mr R.

32. On 4 July 2018, Mr R appealed under stage two of the IDRPs and said:-

- Due to misleading and contradictory information provided by MyCSP in response to the enquiries he had made about retaining deferred benefits based on higher earnings while in the Premium Scheme, this option would not be available to him.
- When retiring under the Alpha Scheme, the best three years of salary used in calculating the benefits would not include his highest final annual pensionable earnings. Those annual earnings were a sum of £22,639.60 that was applicable covering the full three-year period ending on 31 March 2011 while accruing benefits in the Premium Scheme.
- He would like an award in recognition of the financial loss resulting from the misinformation provided by MyCSP. This was around £737 a year from age 60 and totalled over £13,000 by his calculations based on a life expectancy of reaching just under age 78.

33. On 6 August 2019, the Cabinet Office wrote to Mr R in response and said:-

- Mr R completed the Opt Out Form on 23 May 2017, but HR did not receive it until 6 June 2017. HR subsequently informed Mr R that he had opted out of the Scheme with effect from 1 June 2017 and would qualify for continuous service when transitioning into the Alpha Scheme on that basis. This information was incorrect since Mr R needed to have opted out of the Premium Scheme by 31 May 2017 to allow the required six-month break before joining the Alpha Scheme.
- Mr R's election to opt out of the Premium Scheme was correctly processed with effect from 1 June 2017. There is no discretion under the Premium Scheme Regulations for Mr R's date of opting out of the Premium Scheme to be applied earlier than 1 June 2017.
- MyCSP has acknowledged that the information provided to Mr R in the email of 18 January 2017 was misleading regarding a requirement to opt out of the Premium Scheme for only 28 days. MyCSP incorrectly said that this would entitle Mr R to deferred benefits based on his final salary at the date of leaving the Premium Scheme. MyCSP also accepts that by the time appropriate information was

provided to Mr R on the six-month requirement for this purpose, it was too late for him to opt out of the Premium Scheme before the transition to the Alpha Scheme.

- MyCSP should award Mr R a further £500 in recognition of the distress and inconvenience caused (a total of £1,000). The Cabinet Office should award Mr R an additional £250 award for the delay in completing the IDR. So, awards totalling £1,250 to Mr R would be appropriate.

Mr R's position

34. He raised enquiries with MyCSP as early as 2016 with the aim of avoiding a potential final salary link to the Alpha Scheme upon transitioning from the Premium Scheme on 1 December 2017. In response MyCSP provided misleading and contradictory information.
35. Consequently, there was insufficient time for him to opt out of the Premium Scheme for six months then re-join before 1 December 2017. So, he has been unable to join the Alpha Scheme and retain an element of deferred benefits in the Premium Scheme based on his highest final salary during the three-year period ending on 31 March 2011.
36. MyCSP was incorrect in stating that it would not be possible to calculate any financial loss he has incurred. By his calculations the financial loss was around £737 a year from age 60 and totalled over £13,000 based on a life expectancy of just under 78 years of age.
37. Information regarding the process for opting out of the Scheme and the implications of doing so had been available. So, MyCSP ought to have pointed him towards the relevant resources. He would then have been able to make informed decisions regarding opting out of the Premium Scheme and how to retain deferred benefit entitlements.
38. He received no response to his letter of 7 June 2017, and his appeal under stage two of the IDR was sent in July 2018 but the Cabinet Office replied over a year later in August 2019.
39. He has not re-joined the Scheme in the Alpha Scheme, meaning that he is not accruing any further benefits under the Scheme. Since his benefits in the Premium Scheme remain deferred, he cannot partially retire, claim ill-health benefits, or potentially leave death in service benefits to a dependent.
40. He has received the £1,250 awarded by MyCSP and the Cabinet Office in recognition of the distress and inconvenience caused to him. However, the financial detriment he suffered has not been recognised by MyCSP or the Cabinet Office.

MyCSP and the Cabinet Office's position

41. Mr R's letter of 7 June 2017 was received by MyCSP on 12 June 2017 but no response was provided. However, the questions raised were eventually answered on 4 September 2017 following Mr R's enquiry of 2 August 2017.
42. Mr R has not re-joined the Scheme in the Alpha Scheme. However, to prevent his Premium Scheme benefits being linked to his final salary in the Alpha Scheme, he only needed to complete a five year break in service under the Transitional Provisions in the Alpha Scheme Regulations, having not joined on the transition date.
43. Since Mr R opted out of the Scheme with effect from 1 June 2017 that five year period has elapsed. He was automatically enrolled into the Alpha Scheme in 2021 but elected to opt out immediately.
44. As Mr R is not an active member, he does not qualify for benefits that would otherwise be available including ill health retirement and death in service benefits. He is also unable to partially retire for the same reason.
45. MyCSP's email of 18 January 2017, provided incorrect information regarding the amount of time Mr R would need to opt out of the Premium Scheme to retain deferred benefits upon joining the Alpha Scheme. However, correct information was provided regarding how his Premium Scheme benefits are calculated
46. Mr R has said that his highest pensionable earnings were accrued between February 2006 and November 2013. However, it was his choice to remain opted out of the Alpha Scheme and not re-join to obtain the associated benefits.

Adjudicator's Opinion

47. Mr R's complaint was considered by one of our Adjudicators who concluded that no further action was required by MyCSP or the Cabinet Office. The Adjudicator's findings are summarised below:-
 - MyCSP has acknowledged that it provided incorrect information to Mr R in its email of 18 January 2017. MyCSP said that if Mr R opted out of the Premium Scheme for 28 days, then re-joined, this would entitle him to deferred benefits based on his final salary at the date of leaving the Premium Scheme when transitioning to the Alpha Scheme.
 - In the Adjudicator's view, Mr R made it clear in his follow up enquiry of 28 February 2017 that he understood there was a requirement to opt out of the Premium Scheme for 28 days to retain deferred benefits. My CSP responded on 10 March 2017, but failed to clarify the correct process.
 - Mr R had, in fact, been required to opt out of the Premium Scheme for at least six months and re-join before 1 December 2020 to retain deferred benefits that would not be linked to the final salary in the Alpha Scheme upon transition. By the time

MyCSP provided appropriate information to Mr R regarding that point on 19 May 2017, it was too late for him to act accordingly. In the Adjudicator's opinion this amounted to maladministration by MyCSP.

- In the Adjudicator's opinion Mr R would reasonably have relied on the details provided in MyCSP's email of 10 March 2017. However, Mr R's decision not to re-join the Scheme in the Alpha Scheme meant that he retained deferred benefits in the Premium Scheme, in any case, which was his stated goal.
- Mr R would only have lost that entitlement if he had re-joined the Scheme in the Alpha Scheme within five years of opting out of the Premium Scheme. The combined benefits would then have been subject to a final salary link to his service in the Alpha Scheme at retirement. Since Mr R has not re-joined the Scheme within five years that outcome is irrelevant.
- Further, Mr R's final salary that could hypothetically be linked to any pensionable service in the Alpha Scheme is unknown, as is the length of his retirement. So, in the Adjudicator's view it is not possible to say with any certainty that Mr R has incurred a financial loss that requires redress as a result of MyCSP's previously identified maladministration.
- Since Mr R was unable to opt out of the Premium Scheme for six months then immediately join the Alpha Scheme, he became subject to the Transitional Provisions in Part 1 in Schedule 2, Regulation 182 of the Alpha Scheme. So, Mr was required to complete at least a five-year break between opting out of the Premium Scheme on 1 June 2017 and joining the Alpha Scheme to retain deferred benefits in the Premium Scheme. This minimum period ended on 1 June 2022.
- Mr R has chosen not to re-join the Scheme in the Alpha Scheme. So, he does not qualify for additional benefits, ill-health retirement and cannot potentially leave death in service benefits. In the Adjudicator's opinion neither MyCSP nor the Cabinet Office can reasonably be held responsible for Mr R not now qualifying for these entitlements since it was for Mr R to re-join the Scheme if he wished to qualify for them.
- Mr R's decision not to re-join the Scheme at the earliest opportunity without losing deferred benefits in the Premium Scheme is inconsistent with any wish to start accruing further benefits in the Alpha Scheme. Accordingly, there is no evidence that Mr R would have done anything differently. Mr L's complaint should not be upheld because it is not possible to say with any certainty that the maladministration previously identified caused him financial detriment.
- In the Adjudicator's view the misinformation provided by MyCSP and the Cabinet Office's delay in completing the IDRPs would have caused Mr R serious distress and inconvenience. The Ombudsman's guidance for serious non-financial injustice of this kind is an award of £1,000. The awards totalling £1,250 that

MyCSP and the Cabinet office have paid Mr R are sufficient recognition of the distress and inconvenience he has suffered.

48. MyCSP and the Cabinet Office accepted the Adjudicator's Opinion, Mr R did not, and the complaint was passed to me to consider. Mr R provided his further comments which do not change the outcome. I agree with the Adjudicator's Opinion and note the additional points raised by Mr R.

Mr R's additional comments

49. He decided to retain deferred benefits in the Premium Scheme by opting out of the Scheme for five years from June 2017 but only as a consequence of receiving the misinformation provided by MyCSP on 18 January 2017. He did not re-join the Scheme in June 2022 because he had lost track of time over several years of not considering this option. He was also awaiting a resolution to his complaint.
50. MyCSP's error meant that he was denied the opportunity to opt out of the Scheme for only six months from May 2017 and retain deferred benefits in the Premium Scheme. So, he has not made an additional four years and six months of contributions that he would otherwise have paid. Consequently, he has suffered financial detriment through not accruing additional service and not been entitled to claim ill-health benefits, or potentially leave death in service benefits to a financial dependent.

Ombudsman's decision

51. Mr R has complained that MyCSP provided misleading information that meant his potential retirement benefit entitlement could be reduced upon transitioning to a new section of the Scheme.
52. Mr R submits that MyCSP's error in the letter of 18 January 2017 meant that he was denied the opportunity to opt out of the Scheme for only six months from May 2017 and retain deferred benefits in the Premium Scheme upon transitioning to the Alpha Scheme in December 2017.
53. I note that MyCSP's letter of 18 January 2017 incorrectly stated that Mr R was required to opt out of the Premium Scheme for 28 days to retain deferred benefits when transitioning to the Alpha Section. It was not until 19 May 2017 that MyCSP eventually clarified that Mr R would, in fact, be required to opt out of the Premium Scheme for six months before 1 December 2017. As a result, there was insufficient time for Mr R to comply with this requirement. I find that MyCSP's failure to provide appropriate information to Mr R in a timely manner amounts to maladministration.
54. Mr R contends that he decided to retain deferred benefits in the Premium Scheme by opting out of the Scheme for five years from June 2017 but only due to receiving the misinformation provided by MyCSP in January 2017. As a consequence, he has not accrued an additional four years and six months of benefits in the Alpha Scheme from December 2017. Mr R says he has therefore suffered financial detriment, not just through this reduction in accrued benefit, but also through not being entitled to claim

ill-health benefits or potentially leave death in service benefits to a dependent (should that have been necessary).

55. I acknowledge that having not transitioned into the Alpha Scheme on 1 December 2017, Mr R became subject to the Transitional Provisions in the Alpha Regulations. This meant he was required to complete a five-year break from the Scheme in order to retain deferred benefits in the Premium Scheme (and achieve his goal of avoiding a final salary link between his Premium Scheme benefits and Alpha Scheme benefits). This was on the basis that Mr R believed his highest pensionable salary had been earned while accruing benefits in the Premium Scheme.
56. However, Mr R's final pensionable salary if he had joined the Alpha Scheme in December 2017 instead of taking a five-year break is unknown. Consequently, there is no evidence that Mr R would have suffered financial detriment by joining the Alpha Scheme within the five-year period he has referred to. So, it was for Mr R to assess his options from 1 December 2017 and decide whether he wished to retain deferred benefits in the Premium Section or join the Alpha Scheme immediately. I find that neither MyCSP nor the Cabinet Office can be held responsible for Mr R's decision not to join the Alpha Scheme or any implications of that decision.
57. Mr R has claimed a financial loss of around £737 a year in pension entitlement from age 60, totalling over £13,000. Mr R says this is based on a life expectancy of just under 78 years of age, having not re-joined the Scheme, due to MyCSP's errors. However, the scenario Mr R has set out is hypothetical in nature. I cannot conclude with any certainty that there will be an actual financial loss to Mr R on the basis of events that may not happen. Furthermore, and importantly, his argument is further weakened by his decision not to join the Alpha Scheme as soon as he was able to do so without jeopardising his goal of 'fixing' his pensionable salary in the Premium Scheme. This suggests that it was that goal of achieving a deferred benefit in the Premium Scheme, which he successfully achieved, that was the key driver in his decision making, rather than his contention that he wanted to accrue benefits in the Alpha Scheme. Certainly, there was no requirement for Mr R to await a resolution to his complaint before joining the Alpha Scheme, and there is no evidence of him making an enquiry to us regarding this point.
58. In summary, in these circumstances, I find that it was Mr R's personal choice not to join the Alpha Scheme in December 2017, resulting in no entitlement to the additional benefits that would otherwise have been available to him. Neither MyCSP nor the Cabinet Office can be held responsible for Mr R making that decision. There is no evidence that MyCSP's error caused financial detriment to Mr R. So, there is no requirement for either MyCSP or the Cabinet Office to provide Mr R with an additional four years and six months of pensionable service under the Alpha Scheme.
59. The awards totalling £1,250 that MyCSP and the Cabinet Office paid Mr R is sufficient recognition of the distress and inconvenience he has suffered.
60. I do not uphold Mr R's complaint.

CAS-43765-C7C4

Dominic Harris

Pensions Ombudsman
5 May 2023