

Ombudsman's Determination

Applicant	Ms K
Scheme	Civil Service Pension Scheme (the Scheme)
Respondents	Civil Service Pensions (CSP) Scottish Widows (SW)

Outcome

1. Ms K's complaint is upheld and to put matters right, CSP shall follow the steps set out in the section, "Directions".

Complaint summary

2. Ms K has complained about the time it took to disinvest her additional voluntary contributions (**AVCs**) and transfer the funds out of the Northern Ireland Civil Service AVC Scheme (**NICSAVCS**), which is the AVC section of the Scheme.
3. Ms K considers that the delay caused her a financial loss, because the value of her AVCs decreased between the date she retired from employment and the date of the transfer.

Background information, including submissions from the parties

4. The sequence of events is not in dispute, so I have only set out the key points. I acknowledge there were other exchanges of information between all the parties.
5. In June 2019, Ms K emailed CSP to advise that her intention was to take early retirement in late February 2020. She asked for information on how she could obtain a pension quotation and about the likely timescale, given her intended date of retirement.

6. On 20 June 2019, CSP emailed Ms K to explain that she should notify Northern Ireland Civil Service (**the Employer**) of her intended date of retirement approximately six months in advance of the final day of service. The Employer would then ask CSP to prepare a pension quotation, which would be issued to Ms K around six-to-ten weeks before her retirement date. This would ensure that her salary and service details were as up to date as possible. CSP said that the Employer would confirm the notice period Ms K needed to give.
7. On 9 August 2019, the Employer emailed CSP to advise that Ms K had submitted a retirement application, which specified that her last day of service would be Saturday 29 February 2020. It asked CSP to issue a pension estimate to Ms K.
8. Ms K said she contacted CSP in December 2019 to ask when she would receive her retirement forms and CSP told her that this would not be until after Christmas. CSP has advised that it does not have a record of Ms K contacting it in December 2019.
9. On 10 January 2020, CSP wrote to Ms K to confirm that it had received her request to take early retirement from the Scheme. It enclosed a statement showing the estimated pension she could receive, the personal details and option forms, and instructions on how to proceed. CSP explained that the statement did not include details of her AVC benefits, so it would provide this via separate correspondence.
10. Ms K said she received CSP's letter, with the enclosures, on 17 January 2020 and returned the completed forms the following day.
11. On 21 January 2020, CSP received Ms K's completed retirement forms. Ms K had included a note which expressed her wish to access her AVC benefits from the same retirement date.
12. On 28 January 2020, CSP emailed SW to confirm that Ms K's intention was to retire on 29 February 2020 (**the Notification**). CSP highlighted that Ms K had requested an illustration of her AVC benefits payable from NICSAVCS.
13. On 12 February 2020, SW emailed CSP to explain that in order to provide the illustration of Ms K's AVC benefits, it would need CSP to obtain consent from Ms K to share her personal information with third parties, for example, other annuity providers.
14. On 18 February 2020, SW wrote to CSP with a retirement quotation for Ms K's AVC benefits. This confirmed a current value of £24,332.13 at that date. SW also provided an annuity quotation based on a start date of 29 February 2020.
15. The covering letter explained that SW was unable to provide Ms K with the option of an uncrystallised funds pension lump sum (**UFPLS**), or a flexi-access drawdown, under her existing contract. If she wanted to pursue either of these options, she could transfer to a SW Retirement Account or to an alternative provider.

16. On 24 February 2020, CSP wrote to Ms K with details of the current value of her AVC benefits and explained the options available in respect of her AVCs. This included confirmation that, to take an UFPLS, Ms K would need to open a new personal pension with a provider of her choice. Her AVC benefits may then be transferred to the new provider, subject to the approval of CSP trustees.
17. On 2 March 2020, CSP received a completed form from Ms K that indicated her wish to take the entirety of her AVC benefits in the form of an UFPLS.
18. On 4 March 2020, CSP wrote to SW to confirm that Ms K had decided to take an UFPLS in respect of her AVC benefits. It said that the Trustees of NICSAVCS authorised the transfer and for SW to open an account to enable Ms K to access her AVC benefits. CSP requested any further documents that SW required Ms K to complete.
19. On 6 March 2020, the Employer emailed CSP to provide official notification of Ms K's retirement, with her last day of service being 29 February 2020. CSP has since advised that payment of Ms K's non-AVC benefits was initiated on 11 March 2020.
20. On 9 March 2020, SW received CSP's letter dated 4 March 2020.
21. On 19 March 2020, SW emailed CSP. SW apologised that it had not responded to the previous correspondence. It said that in order to proceed with the payment of Ms K's AVC benefits, it required Ms K to complete a Declaration of Claim Discharge form (**the Discharge Form**).
22. On the same day, CSP wrote to Ms K, enclosing the Discharge Form for her to complete.
23. On 24 March 2020, Ms K emailed a copy of the signed Discharge Form to CSP. She confirmed that she had sent the original version of the form by post. CSP has advised that this was received on 26 March 2020.
24. On 26 March 2020, CSP forwarded the Discharge Form to SW by email. It restated Ms K's wish to take her AVC benefits as an UFPLS. CSP explained that due to the Covid-19 pandemic, its staff were working from home, so, it would not be possible to provide an ink signature in the trustee section of the Discharge Form. Instead, it gave authorisation on behalf of the Trustees of NICSAVCS within the email. CSP referred to the signed instruction it had provided in the correspondence of 4 March 2020.
25. On 1 April 2020, the transfer of Ms K's AVC benefits from NICSAVCS to SW was completed. A new SW policy (**the New Policy**) was set up to receive the transferred benefits, valued at £21,213.05, which were then invested in the SW Cash Fund. SW has explained that this fund invests in high-quality, mostly short-term debt instruments, such as fixed deposits, certificates of deposit, commercial paper, and floating rate notes. Although it carries a relatively modest risk to capital and is classed as a 'cautious' risk profile, the fund charges may reduce the value of the investment.

26. On 2 April 2020, SW emailed CSP to confirm that it had issued a settlement letter for Ms K's AVC benefits. It attached a copy of the letter to the email.
27. On 7 April 2020, SW wrote to Ms K about her request to access her AVC benefits from the New Policy. It said that the current value was £21,213.05, which was not guaranteed. It enclosed a booklet that detailed the payment options.
28. On 23 April 2020, Ms K telephoned SW. She set out her intention to receive her AVC benefits as an UFPLS. She also registered a complaint about the decline in value of her AVCs since she had initiated her retirement process.
29. Later that same day, SW wrote to Ms K to acknowledge her interest in accessing her benefits from the New Policy. It reiterated the different options available.
30. On 18 May 2020, SW wrote to Ms K with its response to her complaint. It said it was notified of her request for an illustration of her AVC benefits on 28 January 2020. SW said it needed consent from the CSP trustees before it could transfer her AVC benefits into the New Policy. It said it did not receive this consent until 9 March 2020, which was nine days after her retirement date. It then had to request completion of the Discharge Form, which was submitted on 24 March 2020. The transfer of funds to the New Policy then took place in April 2020.
31. SW noted that Ms K had contacted it by telephone on 23 April 2020 to request the payment of her AVC benefits as an UFPLS. During the initial telephone call, she was told that she would need to undertake a second call to complete the payment process, but she was yet to do this.
32. On 25 May and 28 May 2020, Ms K emailed CSP to register a complaint about the delayed administration of her AVC benefits.
33. On 1 June 2020, CSP wrote to Ms K with its response to her complaint under stage one of the Scheme's two-stage Internal Dispute Resolution Procedure (**IDRP**). CSP considered it was standard procedure to have requested an illustration of retirement benefits in advance. The AVC provider, SW in this case, then had to allow Ms K time to decide how she would like to receive her benefits. CSP asserted that it was not responsible for any undue delays that had occurred during the retirement process. It said that the Notification did not allow sufficient time to complete the settlement of Ms K's AVC benefits by her retirement date of 29 February 2020. It noted that it was for the member, rather than CSP, to initiate the retirement process.
34. CSP explained that the Discharge Form could not have been completed and issued any sooner, as Ms K first had to be provided with an illustration of retirement options before the Discharge Form could be issued. It said this took place after her retirement date because of the overall time it takes to process an AVC benefit application once CSP has been notified of a request.

35. On 8 June 2020, CSP received Ms K's correspondence which confirmed her wish to appeal the decision at stage one of the IDR. Ms K said that she was required to give CSP and the Employer six months' notice of her intended retirement date. She returned the necessary forms by the end of August 2019 and said she was told that she would be contacted by CSP, roughly 10 weeks before her retirement date, to administer the payment of her AVC benefits. She had not heard anything by December 2019, so enquired with CSP, who said that the retirement process would not commence until after Christmas.
36. Ms K said that she had completed all the actions required of her as quickly as possible. She asserted that delays by CSP had prevented the payment of her AVC benefits by her retirement date. She calculated that the delay had led to a reduction in the value of her AVC benefits of approximately £3,000, due to the decline in stock markets caused by the Covid-19 pandemic. She was also unhappy that she had not been able to correspond with SW during the retirement process.
37. Ms K has since revised her estimate of the alleged financial loss. She considers that it equates to the difference between the value of her AVCs on 29 February 2020, which was £23,023.55, and the value transferred to the New Policy on 1 April 2020, which was £21,213.05. The difference was £1,810.50 and Ms K believes that any redress should also include an award of interest.
38. On 9 June 2020, CSP wrote to Ms K to acknowledge her request to move the complaint to stage two of the IDR. It said it intended to respond by 8 October 2020 and if it was unable to meet this deadline, it would notify her by this date.
39. On 10 December 2020, SW wrote to Ms K to acknowledge her request to receive her benefits from the New Policy as an UFPLS. It advised that the value of her benefits on 9 December 2020 was £21,169.12 and this value was not guaranteed.
40. Later the same month, SW wrote to Ms K to confirm that it had completed the encashment of her benefits in the New Policy on 10 December 2020. SW explained that the gross value of her benefits amounted to £21,169.12. It also explained that the benefits were subject to income tax and a net payment of £15,743.82 would be made to her by bank transfer.
41. On 2 July 2021, CSP wrote to Ms K with its response under stage two of the IDR. It apologised for the time it had taken to issue this response and explained that the delay was due to staff absences. CSP said it did not consider that it had caused an unreasonable delay in the settlement of Ms K's AVC benefits. It also highlighted that the Covid-19 pandemic had adversely impacted stock markets. It said that this had led to a reduction of £1,308.58 in the value of Ms K's AVCs, when compared with the value of £23,023.55 on 18 February 2020.

42. CSP provided a timeline of the actions it had undertaken in connection with Ms K's case. It said that this did not include the time it took to post documents to third parties. CSP said that it is only when the member has received a quotation, and information on the options available on retirement, that CSP will seek confirmation of the option the member has chosen.
43. CSP maintained that the period of five working days between the receipt of Ms K's forms on 21 January 2020 and 28 January 2020, the date it notified SW of her retirement, was reasonable. It said it was not responsible for the further 15 working days it took for SW to produce the retirement quotation. Similarly, it said it was not responsible for the time taken between the date authorisation was provided to SW on 9 March 2020, and the issue of the Discharge Form on 19 March 2020.
44. CSP said that its letter to SW, dated 4 March 2020, included authorisation for Ms K's funds to be transferred to a personal account. It considered that this should have enabled SW to discuss the matter directly with Ms K. CSP confirmed that it would amend the wording of its future correspondence to make its position clear.
45. CSP explained that it processes retirements in order of the leaving date. They are actioned closer to the leaving date to ensure that the member's salary and other relevant information is as up to date as possible. This will mean that the quotations produced by SW are likely to be more accurate. In Ms K's case, the retirement process commenced on 6 January 2020, which was slightly later than normal due to the impact of the Christmas and New Year holiday period and the volume of retirement applications that were pending at the time.
46. SW has confirmed that, under its service level agreement (**SLA**), the time it should take to process a request for a retirement quotation and/or other information is 10 working days. Its SLA to process a payment is five working days. However, it said that in 2020, these timescales may have been adversely affected by the Covid-19 pandemic.

Adjudicator's Opinion

47. Ms K's complaint was considered by one of our Adjudicators, who concluded that there was maladministration and further action was required by CSP. The Adjudicator's findings are summarised below:-
 - Ms K gave CSP sufficient notice of her intention to retire and was not responsible for the settlement of her AVC benefits being delayed.
 - While there was a minor delay attributable to SW, CSP bears overall responsibility for the delay, because it did not begin the administration for the settlement of Ms K's benefits early enough to meet her retirement date of 29 February 2020.

- There were no unusual factors in Ms K's case that meant it would not have been possible for CSP to have administered her AVC benefits by 29 February 2020. All actions required as part of the process would have been foreseeable to CSP.
- Once CSP had initiated the administration process, it completed its actions within a reasonable timeframe, but the maladministration occurred in it beginning this process too late.
- CSP should redress any financial loss in the value of Ms K's AVC benefits. The redress calculation should compare the value she would have achieved if the administration had been completed on 29 February 2020, with the value she actually received.
- CSP should also pay Ms K a further £500 in recognition of the significant distress and inconvenience she suffered.

48. CSP did not accept the Adjudicator's Opinion and the complaint was passed to me to consider. CSP provided further comments in response to the Opinion. In summary, it said:-

- Ms K praised its help with her complaint issue and acknowledged that the delay in accessing her AVC benefits lay with SW. It considers that Ms K raised a complaint against CSP, because her complaint against SW was unsuccessful.
- It agrees that Ms K gave enough notice of her intention to retire, although at that time, it processed awards in order of leaving date. Work on Ms K's case began on 6 January 2020, close to her retirement date, to ensure that her salary and service details were as up to date as possible.
- It contacted Ms K within the estimated time frame of six-to-ten weeks before her retirement, as advised by CSP at the time of her enquiry on 20 June 2019. This was standard practice, so it does not agree that it caused delays at this time.
- When it received the documentation from Ms K, on 21 January 2020, this was the first point at which it was aware of Ms K's intention to access her AVC benefits.
- It cannot control how long SW takes to respond to an email. It does not accept that SW's delay of 15 working days, in responding to its request for a retirement quotation for Ms K, should not be counted as a significant contributing factor to the overall delay. SW took further time to provide the Discharge Form and to complete the transfer of Ms K's benefits out of NICSAVCs.
- It should not be blamed for the time it took SW to recognise that the Discharge Form was required, as this was a SW procedure. Nonetheless, it acted swiftly once the request was received.
- It acted within a reasonable timeframe for each step in the process and did not cause any undue delays. Any delays caused by the postal service were beyond its control.

- It was made clear in the communication to Ms K that the value of her AVC benefits could fluctuate and the estimate was not final. It should not be held accountable to pay a member what they are not due, especially when the funds are from a private pension fund and not its own money.
- It agrees with Adjudicator's opinion that Ms K should be paid £500 in recognition of the distress and inconvenience she suffered.

49. Ms K also provided brief comments in response to the points raised by CSP. She said that she did acknowledge the helpful attitude of CSP prior to her retirement. However, she was not allowed to contact SW, so had no contact with it throughout the process. Her AVCs were managed through CSP, so she was dependent on CSP to complete the process on her behalf.
50. I have considered the additional points raised by CSP and Ms K and they do not change the outcome. I agree with the Adjudicator's Opinion.

Ombudsman's decision

51. CSP has asserted that it acted appropriately by starting the administration of Ms K's retirement in January 2020, and that it completed all of its subsequent administrative actions within a reasonable timeframe. CSP considers that it was not responsible for the settlement of Ms K's AVC benefits being delayed beyond her retirement date of 29 February 2020.
52. CSP has confirmed that none of the actions undertaken during the administration of Ms K's retirement were outside what would have been expected for a member's retirement from the Scheme.
53. CSP identified three activities, undertaken by SW as part of the overall process, which it said took a total of 29 working days to complete. SW has confirmed that its SLA to process a request for information is 10 working days and its SLA to process a payment is five working days. Of the three activities identified by CSP, two were completed within SW's SLAs. The Discharge Form was issued eight working days after the receipt of CSP's correspondence which requested any further documents that Ms K needed to complete. The payment of Ms K's AVC benefits took four working days.

54. CSP said it considers that the period of 15 working days, taken by SW to issue Ms K's retirement quotation, was unreasonable. SW's initial response to the request for Ms K's retirement quotation came after 11 working days. SW explained that it would need consent from Ms K to share her details with third party providers. Given that the request for a retirement quotation was a standard procedure, and it cannot be unusual for members to have AVC benefits held in this way, I find that it would be reasonable to expect CSP to have proactively obtained consent from Ms K for SW to share her details as required. However, SW could also have identified the need for consent sooner than it did. The delay meant that the overall time taken to issue Ms K's retirement quotation was 15 working days, rather than the 10 working days that might have been expected, based on SW's SLA. I find that CSP and SW both share responsibility for this delay of five working days.
55. Ms K's AVC benefits were transferred out of NICSAVCs on 1 April 2020, 22 working days after the first working day following 29 February 2020 (which was a Saturday). If we allow for the delay outside of the SLA of five working days, highlighted above, this leaves a discrepancy of 17 working days between the actions that occurred outside of the SLAs and the overall delay to the settlement of Ms K's AVC benefits.
56. CSP has asserted that it began the administration of Ms K's retirement in good time and that its subsequent actions did not cause an unnecessary delay. In light of the discrepancy of 17 working days highlighted above, CSP's assertion cannot be correct. I find that while CSP did complete its administrative actions in reasonable time, once it had begun Ms K's retirement process, it did not start the process early enough to carry out these actions in time for her retirement date. CSP acknowledged, in its complaint response dated 1 June 2020, that the Notification in January 2020 did not allow sufficient time to settle Ms K's AVC benefits by her retirement date of 29 February 2020. I find that this was the overriding factor which caused the delay and that it amounts to maladministration by CSP.
57. I find that CSP, with assistance from SW, should carry out a calculation to determine whether Ms K has suffered a financial loss through the failure to complete the settlement of her AVC benefits by her retirement date of 29 February 2020. The actions required are listed in the section, "Directions".
58. I uphold Ms K's complaint.

Directions

59. Within 28 days of the date of this Determination, CSP shall:-
- Pay Ms K £500 in recognition of the significant distress and inconvenience she has suffered.
 - Establish the value of Ms K's AVCs on 29 February 2020 (**the 29 February Value**). Given that 29 February 2020 was a Saturday, it may be that the 29 February Value is the benefit value as of 28 February 2020.

- Liaise with SW to determine what would have been the value of Ms K's funds in the New Policy, if the transfer had been completed on 29 February 2020 (**the 10 December Value**). CSP should assume that the 29 February Value would have remained invested in the SW Cash Fund until the encashment was completed on 10 December 2020.
- If the 10 December Value is lower than £21,169.12, the actual gross value of Ms K's benefits as of 10 December 2020, then CSP shall take no further action. This is because Ms K would not have suffered a financial loss.
- If the 10 December Value is higher than £21,169.12, then CSP shall calculate the difference between the 10 December Value and £21,169.12 (**the Gross Difference**).
- I find that under this hypothetical timeline, Ms K's most likely course of action would still have been to request that the full value of her benefits be paid on 10 December 2020, as an UFPLS. There is no evidence to suggest that she would have brought forward the UFPLS.
- Liaise with SW to determine the additional amount of income tax Ms K would have paid in the 2020/21 tax year, had the Gross Difference been included as part of the UFPLS (**the Additional Tax**).
- Deduct the Additional Tax amount from the Gross Difference (**the Net Difference**).
- Add interest to the Net Difference, calculated at the base rate for the time being quoted by the Bank of England, for the period from 10 December 2020 up to the redress settlement date (**the Redress Amount**).
- Pay the Redress Amount to Ms K.
- Pay the Additional Tax to HMRC on behalf of Ms K.
- If payment of the Redress Amount results in Ms K being liable for a further tax charge, over and above the Additional Tax amount, for which she would not otherwise have been liable, then CSP shall make a second payment of redress in respect of this further tax charge.

Dominic Harris

Pensions Ombudsman
25 October 2023