

Ombudsman's Determination

Applicant	Mr Y
Scheme	Principal Civil Service Pension Scheme (PCSPS)
Respondents	MyCSP

Outcome

1. I do not uphold Mr Y'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 Y has complained that MyCSP did not provide him with a transfer value quotation in time for him to transfer his benefits to a defined contribution scheme. Mr Y is also unhappy about the way his complaint was handled.

Background information, including submissions from the parties

4. In its budget announcement in March 2014, the government stated its intention to introduce legislation to remove the option of transferring benefits from unfunded public sector schemes to defined contribution schemes which offered flexible benefits. The deadline for processing applications for any transfers out to a defined contribution scheme was 5 April 2015.
5. In February 2015, Mr Y telephoned MyCSP and asked for a transfer value. The transcript of the telephone conversation confirms that the adviser informed Mr Y that as an active member, he would not be able to transfer out unless he opted out of the scheme. The adviser also said that she would not be able to guarantee that Mr Y would receive a transfer value before 6 April 2015. Mr Y sent an email chaser on 27 February 2015 asking for a transfer value quotation.
6. On 11 July 2015, Mr Y wrote to MyCSP and complained that to date he was still waiting for a transfer value. He said he had applied for this in February 2015, hoping that he could transfer his pension out before the 6 April 2015 deadline.
7. On 22 September 2015, MyCSP wrote to Mr Y and thanked him for requesting a valuation of his benefits. It apologised for the delay and said it had written to the

Inland Revenue National Insurance Contributions Office for the Guaranteed Minimum Pension rate and that a reply could take up to three weeks. It would write to him again once it had received this information.

8. On 28 September 2015, Mr Y wrote to MyCSP again as he had not received a response to his complaint although he had received an acknowledgement. He asked who he could escalate his complaint to.
9. On 27 November 2015, Mr Y emailed the Cabinet Office to make a complaint against MyCSP. The complaint was acknowledged by email on the same day. Cabinet Office said it had contacted MyCSP and had asked for full details and clarification of why his transfer value had been delayed.
10. On 18 December 2015, MyCSP wrote to Mr Y and apologised for the delays in relation to the transfer value and the lack of communication during this time. It said that Mr Y had been advised in a telephone conversation in December 2015 that due to new pension legislation, he could not transfer out his benefits to a defined contribution scheme. In relation to the lack of communication, MyCSP had reviewed its processes and implemented measures to prevent this from happening again. This had been highlighted to senior management and further training had been delivered.
11. The Cabinet Office emailed Mr Y on 4 January 2016, and confirmed it was working closely with MyCSP to improve the level of service and had asked for an update regarding Mr Y's case. It explained that Mr Y could pursue his complaint under the Internal Dispute Resolution (**IDR**) procedure. Mr Y replied and said he had not received the forms included in MyCSP's letter of 18 December 2015. He chased for these on 14 January 2016 by email and received a copy of the forms by email on the same day.
12. On 29 January 2016, MyCSP sent a transfer value quotation to Mr Y explaining that this was for information purposes only and was not guaranteed. This was because he was an active member with a normal retirement age of 60. If Mr Y wanted to transfer his pension rights to a new scheme he would have to resign or opt out of the scheme.
13. On 12 February 2016, MyCSP sent Mr Y a first stage IDR decision which explained that as an active member, he was not eligible to transfer his pension benefits out of the PCSPS. As MyCSP were not obliged to provide Mr Y with a transfer value quotation until after the 6 April 2015 deadline, he had not suffered any financial loss.
14. On 7 April 2016, MyCSP wrote to Mr Y and responded to some further points made by him in response to the first stage IDR decision. MyCSP also enclosed a copy of the transcript from the telephone call he made to MyCSP in February 2015. Mr Y was informed that he was unable to transfer his pension benefits out of the scheme as he was an active member, and that to proceed with a transfer he would be required to opt out of the scheme and preserve his benefits. Mr Y was also told that there was no guarantee that a transfer valuation would be provided before 6 April 2015. MyCSP explained that the Occupational Pension Scheme (Disclosure of Information)

Regulations 1996 confirm that occupational pension schemes have a statutory obligation to provide a transfer valuation to a member within three months of a request. As Mr Y was still an active member of the scheme and not eligible to transfer his benefits out of the scheme, this deadline was not applicable in his case.

15. Mr Y appealed under stage 2 of the IDR procedure and received a determination from the Cabinet Office dated 25 July 2016, which said:

“The issues that affected MyCSP’s performance in the early months of 2015 does not explain nor excuse MyCSP’s lack of response to Mr [Y’s] repeated requests for a quotation and the amount of time it took before he eventually received it. Nor does it explain or excuse MyCSP’s lack of response to his complaints. Cabinet Office sympathises with Mr [Y] for having received such a slow and unresponsive service from MyCSP. While Cabinet Office cannot uphold Mr [Y’s] appeal against the decision that he cannot transfer his PCSPS pension benefits to a defined contribution scheme, it finds that MyCSP should pay Mr [Y] £200 compensation for the distress and inconvenience caused by their unresponsive service.”

16. Mr Y took ill health retirement in December 2016.
17. Mr Y says that MyCSP failed to advise him about how and why he must opt out in order to transfer his benefits. He says MyCSP failed to communicate with him after he requested the transfer valuation in February 2015, and he says that this was deliberate and discriminatory. Mr Y says it was clear that he wanted to transfer his benefits and MyCSP obstructed this by failing to support and advise him.
18. Mr Y says that the £200 compensation was awarded for the distress and inconvenience caused during the complaint period which infers that MyCSP were only negligent after his initial request to transfer. Mr Y says that it was obvious from the first moment he made contact that he was making a reasonable and lawful request to transfer his pension.

Adjudicator’s Opinion

19. Mr Y’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 briefly below:-
- MyCSP has agreed that it delayed providing a transfer value to Mr Y, and that there was a lack of communication on its part following the initial request which caused distress and inconvenience to Mr Y. However, MyCSP does not accept that Mr Y has suffered a financial loss as he was not entitled to a guaranteed transfer value in 2015 when he made the initial request.
 - The Adjudicator referred to the transcript of Mr Y’s telephone conversation with MyCSP in February 2015 in which he initially requested a transfer value. The

Adjudicator found that MyCSP acted appropriately during this conversation and managed expectations about his ability to transfer out, and also the fact that he may not receive a transfer value before 6 April 2015. There was therefore no guarantee or promise that he would have received a transfer value by the 6 April 2015 deadline.

- However, following the initial request, MyCSP did not respond promptly to Mr Y's queries or his complaints throughout 2015 and the Adjudicator considered this amounted to maladministration. The Cabinet Office acknowledged MyCSP's failure and found that it should pay £200 compensation. The Adjudicator agreed that there was a failure and considered that £200 was appropriate compensation to recognise the distress and inconvenience caused by the lack of communication.
 - In relation to the actual transfer, this is not something that Mr Y was automatically entitled to as an active member, as MyCSP explained that Mr Y would have to opt out of the scheme before applying to transfer out. It was therefore unlikely that he would have been able to follow all of the necessary steps to transfer out even if MyCSP's communication was better, and even if they had not delayed in providing a transfer value to him. In any event, even if Mr Y had opted out of the scheme after February 2015, MyCSP would have had up to 3 months to provide a transfer value. It is therefore more likely than not that he would have missed the April 2015 deadline.
 - As a result, the Adjudicator said there was no direct financial loss which can be linked to MyCSP's maladministration. Furthermore, Mr Y says that MyCSP's failures were deliberate and discriminatory but there is no evidence of this. Mr Y has been offered reasonable redress for the poor communication and the delay in providing a transfer value.
20. Mr Y did not accept the Adjudicator's Opinion and the complaint was passed to me to consider. Mr Y has 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 Y for completeness.

Ombudsman's decision

21. Mr Y says he made his request before the 5 April 2015 deadline but as an applicant, he was not made aware of the process and the timescales for applications. Mr Y says that MyCSP sent a memo to all members informing them of what they could do in February 2015, two months before the deadline of 5 April 2015. Mr Y says that by making the initial phone call in February 2015, he was commencing the process of application. Mr Y feels that he has not done anything wrong and says that the Adjudicator's findings make his appeal look flawed.

22. Although I accept that Mr Y made a telephone call in February 2015, it is clear, based on the transcript of the telephone conversation, that he was not able to transfer out as an active member. The adviser clearly informed Mr Y that he would have to opt out in order to receive a guaranteed value. Therefore, even if he was made aware of the process, he would not have been able to request a guaranteed transfer value until he had opted out.
23. In relation to the timescales for applications, Mr Y is suggesting that he should have been informed by MyCSP of his option to transfer out due to the changes in legislation. However, transfers would not apply to active members. I do not agree that MyCSP had a responsibility to contact Mr Y and inform him of when to apply to opt out as that would be up to him depending on his personal financial circumstances and plans. MyCSP could not be expected to assume that active members would want to opt out of receiving valuable benefits and to transfer to another scheme.
24. Mr Y says that through the actions of MyCSP, he has been unable to opt out and transfer to a potentially better scheme. The financial loss cannot be measured as he has never had the opportunity to assess everything but believes this could have been substantial. The new pension provider would have been able to offer a better flexibility to Mr Y and his family.
25. There is no evidence that Mr Y had spoken to any new pension providers who would have been able to offer better flexibility. Mr Y had requested a transfer value as an active member and therefore, had not begun the application process to transfer out. I therefore agree that there has been no direct financial loss as a result of MyCSP's actions.
26. Therefore, I do not uphold Mr Y's complaint.

Anthony Arter

Pensions Ombudsman
26 July 2017