

Ombudsman's Determination

Applicant	Mr H
Scheme	Principal Civil Service Pension Scheme (the Scheme)
Respondent	MyCSP

Outcome

1. I do not uphold Mr H'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 H's complaint against MyCSP is about its failure, to provide a guaranteed transfer value of his benefits in the Scheme by 5 April 2015, to allow a transfer to a Defined Contribution (**DC**) arrangement. After this date, transfers were prohibited, so Mr H was unable to complete his transfer.
4. Mr H has claimed that MyCSP should not have allowed him to opt-out of the Scheme, if there was not sufficient time for the transfer to complete, therefore it should be liable for the reduction he will suffer on his lump sum and monthly pension, due to the lack of contributions paid in since 2015.

Background information, including submissions from the parties

5. On 22 January 2015, Mr H, a member of the Scheme, contacted MyCSP to request an estimated Cash Equivalent Transfer Value (**CETV**). The Scheme is a Defined Contribution (**DB**) scheme, and Mr H intended to transfer his benefits from the Scheme, into a DC arrangement.
6. From 5 April 2015, changes to legislation would be implemented, to prevent transfers from unfunded DB schemes into DC arrangements. Any member wishing to transfer their benefits from a DB to a DC scheme would, therefore, have to do so before 5 April 2015, after which such transfers would no longer be allowed.
7. As a result of the approaching legislation changes, in January 2015, prior to Mr H's CETV request, MyCSP released information to members, stating that it was experiencing a high volume of transfer requests. It therefore advised that a

Guaranteed Transfer Value (**GTV**) would likely take the maximum time allowed, of 3 months, to produce, so a member would need to have requested this before 6 January 2015, to ensure the transfer completed before the April deadline. Any requests made after 6 January 2015 would be dealt with on a 'best endeavours' basis.

8. On 6 February 2015, Mr H received an estimated CETV and contacted his IFA to begin the transfer process. The IFA informed Mr H that he could not start a transfer-out, based on the estimated CETV, and he would need to obtain a GTV. Mr H then contacted MyCSP about this, who confirmed he would need to discuss the matter with his employer.
9. Mr H's employer advised him of the documents it required to send to MyCSP, and these were promptly provided. Shortly after, Mr H's employer notified him that it had forwarded the relevant documents to MyCSP, although it appears these were not sent to the correct email address. After confirming to Mr H that it had not received anything, My CSP advised him of the email address his employer should use.
10. On 9 February 2015, Mr H telephoned MyCSP to advise of his intention to transfer-out of the Scheme. MyCSP confirmed that Mr H could not transfer-out as an active member, so he would first have to opt-out.
11. On 17 February 2015, MyCSP received confirmation from Mr H's employer that he had completed an opt-out form, and his last day of reckonable service would be 31 March 2015.
12. On 8 May 2015, Mr H received a GTV from MyCSP, Because the 5 April 2015 deadline to transfer his DB pension to a DC arrangement had by then passed, MyCSP was unable to complete Mr H's transfer.
13. Around August 2015, following numerous telephone calls and emails to MyCSP, Mr H complained under Stage 1 of the Scheme's Internal Dispute Resolution Procedure (**IDRP**). This application followed several letters between Mr H's local MP, and MyCSP. Mr H considered that MyCSP had delayed issuing his GTV, and it was therefore responsible for him missing the deadline to transfer. Mr H also asserted that MyCSP should not have allowed him to opt-out of the Scheme, if it was unlikely the GTV would be issued in time to complete a transfer out.
14. On 30 December 2015, MyCSP responded to Mr H's complaint. It confirmed that the Scheme had a statutory obligation to issue a GTV within 3 months of the date of request, and as Mr H's GTV was provided on 8 May 2015, this obligation had been adhered to. Further, MyCSP advised that members had been informed of the need to request a GTV by 6 January 2015, as it would likely take the full 3 months to issue GTV's due to the high volume of requests. It concluded it was not responsible for the missed deadline, and therefore was not liable for Mr H's reduced pension and lump sum.

15. On 27 June 2016, Mr H appealed to Stage 2 of the IDRPs. He argued that MyCSP had 'instructed' him to opt-out of the Scheme in order to transfer his benefits, yet it had not met 'its obligations' to allow the transfer to complete. Mr H concluded that the transfer should be allowed, or, if this was not possible, he should be compensated for the reduced lump sum and pension he would now receive.
16. On 5 September 2016, the Cabinet Office issued the Scheme's Stage 2 IDRPs decision. It concluded that MyCSP had followed the correct procedures regarding Mr H's attempted transfer, and that he had been provided with sufficient information to advise of the estimated time for producing a GTV, and therefore the latest point at which to request one in order to guarantee receipt before the 5 April 2015 deadline. It was further observed that, upon notification that it was no longer possible to transfer, the option was open to Mr H to approach his employer regarding re-joining the Scheme, or he was advised it would still be possible to transfer his benefits into a qualifying Recognised Overseas Pension Scheme (**ROPS**).

Adjudicator's Opinion

17. Mr H's complaint was considered by one of our Adjudicators who concluded that no further/further action was required by MyCSP. The Adjudicator's findings are summarised briefly below.
 - The regulations governing the Scheme set out the process that must be followed when a member wants to transfer his or her benefits out of the Scheme. They also outline those members who have an entitlement to a transfer and when a GTV can be issued. It was not possible for MyCSP to issue a GTV until Mr H had opted-out.
 - MyCSP had published a notification to members on its website in January 2015 advising that, due to the high volume of transfer requests at that time, any GTV's would likely take the maximum allowed time of 3 months to be produced. Mr H, nevertheless, decided to proceed with the transfer. MyCSP did not have sufficient time to produce a GTV. It is not MyCSP's responsibility to encourage members to leave the Scheme or to give advice on the consequences of opting out.
 - Although Mr H is now unable to complete a transfer to his chosen DC arrangement, he still retains his deferred pension benefits in the Scheme, and was given the option of opting back into the Scheme.
 - The overall time taken in producing the GTV to enable the transfer-out was not unreasonable. MyCSP were obliged by legislation to produce a GTV within 3 months, and this timescale was adhered to, so it cannot be concluded that MyCSP acted unreasonably, or that it delayed producing the GTV.
18. Mr H did not accept the Adjudicator's Opinion and the complaint was passed to me to consider. Mr H provided his further comments which do not change the outcome. I agree with the Adjudicator's Opinion, summarised above, and I will therefore only

respond to the key points made by Mr H in his email of 18 July 2017 for completeness.

Ombudsman's decision

19. Mr H has, in my view, produced no new evidence to support his case. Reference has been made to existing points and these are summarised below:
 - Mr H has stated that MyCSP offered promises and assurances on a number of occasions, which were relied upon. Namely, the transfer would be completed within the 5 April 2015 deadline, which did not happen.
 - Mr H has also stated that, although the Adjudicator suggests that he had the option to re-join the Scheme when the transfer did not complete, MyCSP expressly told him he could not re-join.
20. At the heart of Mr H's complaint is a fundamental dispute over claimed promises that his transfer would be made by 5 April 2015. However, there is no evidence of promises being made to that effect, and it was unrealistic, in my view to assume that a GTV would be provided before the deadline. MyCSP had a statutory obligation to provide a GTV within 3 months and it advised members in January 2015 that it would likely require the maximum time allowed, due to the number of requests. My CSP only received notice of Mr H's last day of reckonable service on 17 February 2015. That simply left insufficient time to complete the necessary processes before the deadline.
21. Mr H has not produced any evidence to support his contention that he was told by MyCSP that his transfer would complete in time. Given that MyCSP had provided information advising that it could only guarantee transfers would complete in time, if the GTV request was made by no later than 6 January 2015, and any later requests would be dealt with on a 'best endeavours basis', on the balance of probabilities, I consider it highly unlikely that Mr H would have received such promises from MyCSP staff.
22. In any event, even if Mr H was given misleading information about the time it might take to complete his transfer once the application had been received, there is no evidence of a firm promise upon which he relied when choosing to opt out. By then he had already decided to opt out of the Scheme. Moreover, when the deadline passed on 5 April 2015 he did not attempt to opt back in.

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23. Mr H has stated that, MyCSP confirmed to him sometime between 6-8 June 2015 that he could not rejoin the scheme. . MyCSP has advised that they have no record of any telephone calls with Mr H during June 2015. There is therefore no evidence that Mr H tried to mitigate any loss which he perceived was occurring.
24. Cabinet Office has provided a copy of the Declaration signed by Mr H on 6 February 2015, when he applied to opt-out. This declaration states:

“I also understand: If I remain in eligible employment I may apply to re-join the section of the Civil Service pension scheme that I opted out of... I may be able to make added pension contributions if I re-join.”
25. It is clear to me, therefore, that the option was open to Mr H to approach his employer about re-joining the Scheme when the transfer did not complete. Mr H has produced no evidence to show that he took that action. I cannot agree that he should be compensated for the loss of benefit accrual since opting out, as it was his choice not to re-join the Scheme – where, I note, he would have had the option to pay additional contributions to account for the opt-out period.
26. Therefore, I do not uphold Mr H’s complaint.

Karen Johnston

Deputy Pensions Ombudsman
8 August 2017