

Ombudsman's Determination

Applicant	Mr T
Scheme	People's Pension Scheme (the Scheme)
Respondents	Car Valeting Supplies T/A CVS2020.com Ltd (the Employer)

Outcome

1. Mr T's complaint is upheld and, to put matters right, the Employer shall pay £1,280.61 into the Scheme. The Employer shall ensure that Mr T is not financially disadvantaged by its maladministration. So, it shall arrange for any investment loss to be calculated and paid into the Scheme.
2. In addition, the Employer shall pay Mr T £1,000 for the serious distress and inconvenience it has caused him.

Complaint summary

3. Mr T has complained that the Employer, despite deducting contributions from his pay, has failed to pay them into the Scheme.
4. The available evidence shows that the missing contributions amounted to £1,280.61.

Background information, including submissions from the parties

5. The sequence of events is not in dispute, so I have only set out the salient points.
6. On 21 June 2021, Mr T began his employment with the Employer, which terminated on 6 June 2022.
7. Between July 2021 and May 2022, the Employer failed to pay pension contributions into the Scheme.
8. On 13 September 2023, Mr T brought his complaint to The Pensions Ombudsman (**TPO**).
9. Mr T provided copies of the payslips he had available to him. His payslips show the total pension contributions at the financial year ending March 2022 and those on his final payslip covering May 2022. The deductions amounted to £800.38 of employee

contributions and £480.23 of employer contributions, a total of £1,280.61. A breakdown of the deductions has been included in the Appendix.

10. Mr T also provided TPO with a comprehensive schedule detailing pension contributions up to June 2021 from his previous employer. There are no pension contributions thereafter.
11. On 10 November 2023, TPO wrote to the Employer for a response to Mr T's complaint.
12. On 16 November 2023, the Employer responded to TPO and said the missing pension contributions had been successfully paid to the Scheme. The Employer also provided a spreadsheet with nine entries which it said confirmed the pension contributions had been paid. None of the entries specifically named Mr T nor matched the total outstanding amount of £1,280.61.
13. On 21 November 2023, Mr T told TPO that he had checked the Scheme account, but no further contributions had been received. Mr T provided TPO with a further schedule of payments to the Scheme to demonstrate that the last entry was still June 2021.
14. On 1 December 2023, TPO requested more information from the Employer to demonstrate that it had paid the outstanding pension contributions into the Scheme. No response was received from the Employer.
15. On 17 January 2024, TPO contacted the Employer by telephone but received no response. TPO followed up the call with a written request for the Employer to provide an explanation of how the previous evidence it provided related to Mr T's pension contributions.
16. On the same day, the Employer told TPO the company had suffered difficulties due to unforeseen circumstances, which had led to it appointing a new accountant. The Employer said it required more time to provide a response to TPO about Mr T's complaint.
17. On 15 February 2024, the Employer provided a spreadsheet which listed transactions dated between 6 July 2021 to 5 June 2021. The list consisted of monthly figures for gross and net salary earnings, and employer and employee pension contributions. The total employer and employee contributions shown were £816.85. The Employer was of the view that Mr T's complaint should be discharged as the pension contributions had been paid.
18. On 16 February 2024, Mr T told TPO that he had checked the Scheme account, but no further contributions had been received.
19. On the same day, TPO contacted the Employer for it to provide an explanation on the information that it sent on 15 February 2024. No response was received.

Adjudicator's Opinion

20. Mr T's complaint was considered by one of our Adjudicators who concluded that further action was required by the Employer as it had failed to remit the contributions that were due to the Scheme. The Adjudicator's findings are summarised below:-
- The Adjudicator stated that TPO's normal approach, in cases such as these, was to seek agreement from all parties on the facts of the complaint, including the dates and amounts of contributions involved. He said that, as the Employer had not provided sufficient evidence of the pension contributions being paid to the Scheme, he had to base his Opinion solely on the information provided by Mr T.
 - The Adjudicator, based on the information provided by Mr T was satisfied that £800.38 of employee pension contributions and £480.23 of employer pension were not remitted to the Scheme.
 - The Adjudicator said that he had no reason to doubt the information provided by Mr T. So, in the Adjudicator's view, contributions had been deducted from Mr T's salary but had not been paid into the Scheme. In addition, the Employer had not paid any of the employer contributions that were due over the same period. As a result of its maladministration, Mr T was not in the financial position he ought to be in.
 - In the Adjudicator's view, Mr T had suffered serious distress and inconvenience due to the Employer's maladministration. The Adjudicator was of the opinion an award of £1,000 for non-financial injustice was appropriate in the circumstances.
21. On 30 May 2024, the Employer agreed to pay £1,280.16 into the Scheme. It said however that it felt the compensation for Mr T was unwarranted.
22. TPO asked Mr T for his comments on the Employer's response. On 5 June 2024, Mr T confirmed that whilst he remained unhappy with the Employer's response, he would accept £1,280.16 being paid to the Scheme as a revised resolution to his complaint.
23. On 9 July 2024, Mr T informed TPO that the outstanding contributions had not been paid to the Scheme.
24. On 12 July 2024, the Employer told TPO that he would make the payment to the Scheme if the outstanding amount could be spread over four instalments. It also confirmed the first payment would be made immediately.
25. On 15 July 2024, Mr T agreed that the outstanding amount could be paid to the Scheme in four instalments. TPO confirmed this to the Employer on the same day and that the first payment was to be made immediately.
26. On 24 July 2024, Mr T told TPO no payment had been made to the Scheme.

27. On 26 July 2024, TPO asked the Employer to provide an update on the settlement it had proposed. A response was not received from the Employer.
28. As the Employer failed to abide by the agreement following the Adjudicator's Opinion, Mr T's complaint was passed to me to consider. I agree with the Adjudicator's Opinion.

Ombudsman's decision

29. Mr T has complained that the Employer has not paid all the contributions due to his Scheme account.
30. I find that employee contributions were deducted but held back by the Employer and not paid to the Scheme. The Employer failed to rectify this and resolve Mr T's complaint following the Adjudicator's Opinion.
31. The Employer's failure to pay employee and employer contributions into the Scheme amounts to unjust enrichment and has caused Mr T to suffer a financial loss. The Employer shall take remedial action to put this right.
32. Mr T is entitled to distress and inconvenience award in respect of the serious ongoing non-financial injustice which he has suffered. This was exacerbated by the Employer's failure to resolve the dispute during TPO's investigation into the complaint and subsequent failure to implement the revised resolution it had proposed.

Directions

33. To put matters right, the Employer shall, within 28 days of the date of this Determination:
 - (i) pay Mr T £1,000 for the serious distress and inconvenience he has experienced;
 - (ii) pay £1,280.61 into Mr T's Scheme account. This figure represents the amount that, according to the figures provided by Mr T, have been deducted from his pay, but not paid into the Scheme account. It also includes the employer contributions for the relevant period which should have also been paid but have not been paid to date;
 - (iii) establish with the Scheme administrator whether the late payment of contributions has meant that fewer units were purchased in Mr T's Scheme account than he would have otherwise secured, had the contributions been paid on time; and
 - (iv) pay any reasonable administration fee should the Scheme administrator charge a fee for carrying out the above calculation.

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34. Within 14 days of receiving confirmation from the Scheme administrator of any shortfall in Mr T's units, pay the cost of purchasing any additional units required to make up the shortfall.

Anthony Arter CBE

Deputy Pensions Ombudsman

9 August 2024

Month - pay period	Date of pay slip	Employee contributions	Year to date employee contributions	Year to date employer contributions	Year-end total contributions
July 2021	05/08/2021	£77	£77	£46.20	
August 2021	05/09/2021	£77	£154	£92.40	
September 2021	05/10/2021	£77	£231	£138.60	
October 2021	05/11/2021	£77	£308	£184.80	
<i>November 2021</i>	<i>*Not known</i>	<i>£73.50</i>	<i>£381.50</i>	xxxx	
December 2021	05/01/2022	£56	£437.50	£262.50	
January 2022	05/02/2022	£47.18	£484.68	£290.81	
<i>February 2022</i>	<i>*Not known</i>	<i>£77</i>	<i>£561.68</i>	xxxx	
March 2022	05/04/2022	£80.85	£642.53	£385.52	
Year-end contributions			£642.53	£385.52	£1,028.05
April 2022	05/05/2022	£80.85	£80.75	£48.51	
May 2022	05/06/2022	£77	£157.85	£94.71	
Year-end contributions			£157.85	£94.71	£252.56
Total claim			£800.38	£480.23	£1,280.61

**Payslip not provided so figures taken from year-to-date total.*