

## Ombudsman's Determination

Applicant	Mr T
Scheme	The People's Pension ( <b>the Scheme</b> )
Respondent	Glamorgan Music School ( <b>the Employer</b> )

## Outcome

1. Mr T's complaint is upheld and, to put matters right, the Employer shall pay the missing contributions in respect of his pension and make good any shortfall in units. In addition, the Employer shall pay Mr T £1,000 for the serious distress and inconvenience it has caused him.

## Complaint summary

2. Mr T has complained that the Employer, has failed to pay contributions into the Scheme, despite deducting them from his pay.
3. Mr T has said that the missing contributions amounted to £360.32. This figure represents £257.59 in employee contributions and £103.03 in employer contributions.

## Background information, including submissions from the parties

4. The sequence of events is not in dispute, so I have only set out the salient points.
5. Mr T commenced work with the Employer in April 2020.
6. In October 2022, Mr T received a letter from the Scheme administrator which stated that three months of contributions were outstanding from the Scheme. He complained to the Employer, and this was rectified in December 2022.
7. Between March 2023 and July 2023, the Employer failed to pay pension contributions into the Scheme.
8. Mr T complained to the Employer in July 2023, after receiving another notification of unpaid contributions from the Scheme administrator.
9. The Employer said that all outstanding contributions would be made to the Scheme. However, after repaying some amounts, contributions remained outstanding for May 2023 to July 2023.

10. On 28 December 2023, Mr T brought his complaint to The Pensions Ombudsman (TPO).
11. Mr T provided copies of the payslips that he held for the period from May to July 2023 which detailed the pension contributions deducted from his pay and the corresponding employer contributions. These deductions amounted to £360.62. A breakdown of the deductions has been included in Appendix One.
12. On 16 August 2024, TPO asked the Employer for its response to Mr T's complaint. This request was repeated in January 2025. None of these requests received a response.
13. In February 2025, TPO chased the Employer again. But the Employer failed to respond by the deadline.

### **Adjudicator's Opinion**

14. Mr T's complaint was considered by one of our Adjudicator's 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. She said that, as the Employer had not responded to any of TPO's communications, she had to base her Opinion solely on the information provided by Mr T.
  - The Adjudicator said that she had no reason to doubt the information provided by Mr T. So, in the Adjudicator's Opinion, on the balance of probabilities, 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 that an award of £1,000 for non-financial injustice was appropriate in the circumstances.
15. The Employer did not respond to the Adjudicator's Opinion and the complaint was passed to me to consider. I agree with the Adjudicator's Opinion.

### **Ombudsman's decision**

16. Mr T has complained that the Employer has not paid all the contributions due to his Scheme account.

17. I find that employee contributions were deducted but held back by the Employer and not paid into the Scheme. The Employer failed to rectify this and did not engage with TPO or Mr T. It has also failed to respond to the Adjudicator's Opinion.
18. Under the Scheme Rules the Employer was obliged to pay to the Scheme, at least 3% of Ms T's qualifying earnings in the relevant pay reference period, and the employer and employee contributions must amount to at least 8% of Mr T's qualifying earnings in the relevant pay reference period. The relevant provisions of the Scheme Rules are outlined in Appendix Two.
19. I find that the Employer has acted in breach of the Scheme Rules by not paying all contributions due to the Scheme. 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.
20. Mr T is entitled to a distress and inconvenience award in respect of the serious ongoing non-financial injustice which he has suffered. This was exacerbated by its failure to respond during TPO's investigation into Mr T's complaint.

## **Directions**

21. 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 £360.32 into Mr T's Scheme account. This figure represents the employee contributions of £257.59 and employer contributions of £103.03.
  - (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.
22. 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.

**Camilla Barry**

Deputy Pensions Ombudsman

22 March 2025

## Appendix One

Payslip Date	Employer contributions	Employee contributions
21/05/2023	23.10	9.24
28/05/2023	29.15	11.66
11/06/2023	32.28	12.91
18/06/2023	21.95	8.78
25/06/2023	26.13	10.45
02/07/2023	23.63	9.45
09/07/2023	16.65	6.66
16/07/2023	84.70	33.88
Total unpaid employee contributions	<b><u>£257.59</u></b>	
Total unpaid employer contributions		<b><u>£103.03</u></b>

## Appendix Two

### The Rules of the People's Pension Scheme

#### Rule 56.7

In the case of any Eligible Worker who is an Automatic Enrolment Worker, the Employer:

(a) must as a minimum make contributions necessary to comply with the Automatic Enrolment Requirements, having regard to the applicable Contribution Earnings definition; and

(b) subject to Rule 58 (Employer ceasing to participate), may not take any steps which result in such an Eligible Worker ceasing to be an Active Member except where this is permissible under the Automatic Enrolment Requirements

### Section 20 Pensions Act 2008

20 Quality requirement: UK money purchase schemes

(1) A money purchase scheme that has its main administration in the United Kingdom satisfies the quality requirement in relation to a jobholder if under the scheme—

- (a) the jobholder's employer must pay contributions in respect of the jobholder;
- (b) the employer's contribution, however calculated, must be equal to or more than 3% of the amount of the jobholder's qualifying earnings in the relevant pay reference period;
- (c) the total amount of contributions paid by the jobholder and the employer, however calculated, must be equal to or more than 8% of the amount of the jobholder's qualifying earnings in the relevant pay reference period.