

Ombudsman's Determination

Applicant	Miss E
Scheme	NEST (the Scheme)
Respondents	Evolve Practice Management Limited (the Employer)

Outcome

1. Miss E's complaint is upheld and, to put matters right, the Employer shall pay £886.71 into the Scheme. The Employer shall ensure that Miss E 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 Miss E £1,000 for the serious distress and inconvenience it has caused her.

Complaint summary

3. Miss E has complained that the Employer, despite deducting contributions from her pay, has failed to pay them into the Scheme.
4. The available evidence shows that the missing contributions amounted to £886.71. This figure consists of £506.70 in employee contributions and £380.01 in employer contributions.

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. In March 2022, Miss E began her employment with the Employer.
7. Between May 2022 and December 2022, the Employer deducted pension contributions from Miss E's pay but failed to pay them into the Scheme.
8. Miss E was enrolled into the Scheme on 17 January 2023.
9. In June 2023, Miss E ceased employment with the Employer.

10. On 2 August 2023, Miss E received notification from the Scheme administrator that the Employer had told it there were no further contributions due the Scheme.
11. On 17 October 2023, Miss E complained to the Employer about the missing pension contributions. Miss E did not receive a response to her complaint.
12. On 1 January 2024, Miss E brought her complaint to The Pensions Ombudsman (TPO).
13. Miss E could only provide a payslip for November 2022 which detailed the pension contributions deducted from her pay and the corresponding employer contributions. These deductions amounted to £111.68. A breakdown of these deductions has been included in Appendix one.
14. On 28 May 2024, TPO asked the Employer for its response to Miss E's complaint.
15. On 10 June 2024, the Employer told TPO that the contributions had been paid and provided screenshots showing payments made into the Scheme between 5 April 2023 and 19 December 2023. The Employer explained it would contact the Scheme administrator to find out why the missing contributions had not been added to Miss E's Scheme account.
16. On 10 July 2024, the Employer stated it was awaiting a response from the Scheme administrator.
17. On 16 July 2024, TPO asked the Employer to provide further clarification on the screenshot provided as the payment dates were for 2023 and not the 2022 pension contributions Miss E's complaint referred to. The Employer did not respond to this request.
18. The Scheme administrator provided a breakdown of the contributions it received from the Employer. This information only showed contributions which were paid between January 2023 to July 2023.
19. On 8 August 2024, TPO requested payslips from the Employer for May 2022 to December 2022, as Miss E was only able to provide a payslip for November 2022.
20. On 22 August 2024, the Employer provided the outstanding payslips for Miss E. At the same time, it also provided TPO with a screenshot which it said evidenced that Miss E was in fact enrolled into the Scheme on 30 June 2022.
21. The payslips provided by both the Employer and Miss E showed the missing contributions amounted to £886.71 and were deducted between 31 May 2021 and 31 December 2022.
22. The Employer maintained its position that Miss E had been enrolled in June 2022 and the contributions totalling £886.71 had been paid to the Scheme. Miss E's complaint was escalated to a formal investigation.

Adjudicator's Opinion

23. Miss E'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 all 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 the Employer had not adequately engaged with TPO or provided sufficient evidence to show that the outstanding contributions had been paid into the Scheme. She had to base her Opinion on the information provided by both Miss E and the Employer.
 - According to the payslips provided, the total amount outstanding was £886.71. So, in the Adjudicator's Opinion, on the balance of probabilities, contributions had been deducted from Miss E'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, Miss E was not in the financial position she ought to be in.
 - In the Adjudicator's view, Miss E 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.
24. On 19 September 2024, the Employer responded to the Adjudicator's Opinion. It stated that the award for distress and inconvenience was not justified as there was no financial loss or practical impact suffered due to the pension's inaccessibility to Miss E. The Employer explained it would be happy to make another payment to the Scheme only if the Scheme administrator agreed to refund the payments made previously as this would cause a loss to the business.
25. On 5 November 2024, the Scheme administrator confirmed to TPO that Miss E was enrolled into the Scheme on 17 January 2023.
26. On 15 November 2024, TPO provided the Employer with a copy of the Scheme administrators correspondence and explained it had not sufficiently evidenced Miss E was enrolled into the Scheme on 30 June 2022. TPO then asked the Employer to provide a copy of the Scheme administrators correspondence confirming Miss E's enrolment on 30 June 2022. The Employer failed to provide this information.
27. On 12 March 2025, the Employer told TPO it was willing to pay the pension amount owed directly to Miss E's bank account on the written agreement that payment be returned to it should the Scheme administrator subsequently locate the contributions for the period 31 May 2021 to 31 December 2021. The Employer added that it remained unwilling to pay Miss E the £1,000 compensation on the basis she did not

have direct access to the pension account and so there had been no financial hardship or distress caused to her.

28. On 18 March 2025, Miss E told TPO that she wanted the outstanding contributions of £886.71 to be paid into the Scheme. Miss E also confirmed that she also wished to pursue compensation from the Employer for the distress and inconvenience caused to her.
29. On 25 March 2025, TPO informed the Employer that Miss E had rejected its proposal of 12 March 2025.
30. The Employer did not provide any further evidence to support its argument that it had paid the outstanding contributions to the Scheme. The complaint was passed to me to consider. I agree with the Adjudicator's Opinion.

Ombudsman's decision

31. Miss E has complained that the Employer has not paid all the contributions due to her Scheme account.
32. Under the rules of the Scheme (**the Scheme Rules**) the Employer was obliged to pay to the Scheme, at least 3% of Miss E's qualifying earnings in the relevant pay reference period, and the employer and employee contributions must amount to at least 8% of Miss E's qualifying earnings in the relevant pay reference period. The relevant provisions of the Scheme Rules are outlined in Appendix Two.
33. There is no dispute that pension contributions were deducted from Miss E's wages between 31 May 2022 and December 2022, despite her not being enrolled into the Scheme. In my view, the Employer's action to deduct contributions during this period indicates its intention to comply with the Scheme Rules and pay pension contributions into the Scheme. Given that Miss E was subsequently enrolled into the Scheme in January 2023, it is my opinion that the contributions deducted during the period when she was not enrolled should be included in this complaint and remitted to the Scheme accordingly.
34. I find that the Employer has acted in breach of the Scheme Rules as 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 fully engage with TPO or Miss E.
35. The Employer's failure to pay employee and employer contributions into the Scheme amounts to unjust enrichment and has caused Miss E to suffer a financial loss. The Employer shall take remedial action to put this right.
36. Miss E is entitled to a distress and inconvenience award in respect of the serious ongoing non-financial injustice which she has suffered. This was exacerbated by its failure to properly respond during TPO's investigation into Miss E's complaint.

Directions

37. To put matters right, the Employer shall, within 28 days of the date of this Determination:
- (i) pay Miss E £1,000 for the serious distress and inconvenience she has experienced;
 - (ii) pay £886.71 into Miss E's Scheme account. This figure consists of £506.70 in employee contributions and £380.01 in employer contributions.
 - (iii) establish with the Scheme administrator whether the late payment of contributions has meant that fewer units were purchased in Miss E's Scheme account than she 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.

Within 14 days of receiving confirmation from the Scheme administrator of any shortfall in Miss E's units, pay the cost of purchasing any additional units required to make up the shortfall.

Camilla Barry

Deputy Pensions Ombudsman

1 August 2025

Appendix One

Date	Employee contributions	Employer contributions
May 2022*	£63.82	£47.86
June 2022*	£63.82	£47.86
July 2022*	£59.97	£44.98
August 2022*	£67.66	£50.75
September 2022*	£63.82	£47.86
October 2022*	£59.97	£44.98
November 2022	£63.82	£47.86
December 2022*	£63.82	£47.86
Total amount: £886.71	£506.70	£380.01

*Payslips provided by the Employer

Appendix Two

NEST Scheme Rules

Rule 7.1.1

Where in respect of a member a participating employer has elected to use the Scheme to:

(a) fulfil its duties under: (i) in relation to Great Britain, section 2(1) (by virtue of section), 3(2), 5(2) or 7(3) of the 2008 Act; or (ii) in relation to Northern Ireland, section 2(1) (by virtue of section), 3(2), 5(2) or 7(3) of the 2008 NI Act), or

(b) arrange for a worker to become a member of the Scheme within article 19(2A) of the Order,

from the date that admission to membership or the making of contribution arrangements in

relation to that member takes effect, the participating employer shall pay and the Trustee shall accept such contributions as may be required in order for the Scheme to meet the quality requirement referred to in Part 1 of the 2008 Act (Part 1 of the 2008 NI Act), or the alternative requirement referred to in Part 1 of the 2008 Act (or Part 1 of the 2008 NI Act), in relation to the member, having regard to the contributions being paid by the member under rule 9.1.

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.

