

## Ombudsman's Determination

Applicant	Mrs K
Scheme	NEST Pension Scheme ( <b>the Scheme</b> )
Respondents	Solange Bakery Ltd and Artisan Traditions Ltd ( <b>the Employers</b> )

## Outcome

1. Mrs K's complaint is upheld and, to put matters right, the Employers shall ensure that she is not financially disadvantaged by its maladministration. So, they shall arrange for any investment loss to be calculated and paid into the Scheme.
2. In addition, the Employers shall pay Mrs K £500 for the significant distress and inconvenience it has caused her.

## Complaint summary

3. Mrs K has complained about unpaid and late pension contributions into the Scheme by the Employers.
4. The available evidence shows that the missing contributions have since been paid, but the Employers failed to properly engage with Mrs K and arrange for any investment loss to be remitted to Mrs K's Scheme account.

## 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. During Mrs K's employment she was paid and employed by three different companies successively each having the same sole director, Mr Tavares, and operating a business in manufacturing bread and pastries:
  - TVS Empire Ltd
  - Artisan Traditions Ltd
  - Solange Bakery Ltd
7. Mrs K started her employment with TVS Empire Ltd in November 2022.



8. On 3 May 2023, TVS Empire Ltd went into liquidation and on 31 May 2023 Mrs K's payslip showed she had been paid by Artisan Traditions Ltd.
9. On 25 June 2023, Mrs K was enrolled into the Scheme by Artisan Traditions Ltd.
10. On 30 June 2023, Mrs K received a payslip which showed that she had been paid by Solange Bakery Ltd.
11. On 24 August 2023, Mrs K told Mr Tavares as the director of each of TVS Empire Ltd, Artisan Traditions Ltd and Solange Bakery Ltd that she had been contacted by the Scheme administrator about unpaid pension contributions.
12. On 12 October 2023, Mrs K was enrolled into the Scheme by Solange Bakery Ltd.
13. On 18 October 2023, Mrs K wrote to Mr Tavares and complained that despite them deducting pension contributions from her pay, only one contribution had been paid into the Scheme since the start of her employment.
14. On the same day, Mrs K also informed Mr Tavares that she was experiencing continual distress and upset because of the unpaid pension contributions.
15. On 1 November 2023, Mrs K contacted Mr Tavares again in relation to the concerns she raised in her letter of 18 October 2023. She said that she was raising a formal grievance due to the unpaid pension contributions.
16. On 21 January 2024, Mrs K brought her complaint to The Pensions Ombudsman (**TPO**).
17. Mrs K provided TPO with copies of her payslips that she held for the period May 2023 to July 2024 which detailed pension contributions deducted from her pay and corresponding employer contributions.
18. On 31 January 2024, Solange Bakery Ltd made a payment into the Scheme representing Mrs K's employee contributions, and the employer contributions from Solange Bakery Ltd, for the period June 2023 to October 2023.
19. On 22 March 2024, Solange Bakery Ltd made another payment into the Scheme representing Mrs K's employee contributions, and the employer contributions from Solange Bakery Ltd, for November 2023 and December 2023.
20. On 11 June 2024, TPO explained to Mrs K that as TVS Empire Ltd was in liquidation we would only consider the complaint about Artisan Traditions Ltd and Solange Bakery Ltd.
21. On 28 June 2024, TPO contacted Mr Tavares, the sole director named for Artisan Traditions Ltd and Solange Bakery Ltd.
22. On 5 July 2024, TPO was told by accountants acting for Solange Bakery Ltd (**the Accountant**) that it would be making a payment into the Scheme as soon as possible.



23. On 9 July 2024, TPO asked that the Accountant confirm when it would be making the May 2023 employer and employee payments into the Scheme for Artisan Traditions Ltd and those for Solange Bakery Ltd for the period February 2024 to May 2024.
24. On the same day, TPO asked for the Accountant's comments regarding possible investment loss suffered by Mrs K due to the late payment of her pension contributions and its position regarding her suffering distress and inconvenience.
25. On 11 July 2024, Solange Bakery Ltd made a payment into the Scheme representing Mrs K's employee contributions, and the employer contributions from Solange Bakery Ltd, for the period February 2024 to June 2024.
26. On 5 August 2024, the Accountant told TPO that Solange Bakery Ltd had been asked to respond to the questions raised on 9 July 2024.
27. On 27 August 2024, TPO requested an update from the Accountant. On 28 August 2024, the Accountant explained that Solange Bakery Ltd had been told it needed to respond to TPO. The Accountant made a further request on the same date and copied TPO into that message.
28. On 12 September 2024, TPO spoke with Mr Tavares to reaffirm that the May 2023 unpaid pension contributions payable by Artisan Traditions Ltd, were being considered in the complaint alongside those payable by Solange Bakery Ltd. Mr Tavares agreed he would consult with the Accountant.
29. On the same date, Mr Tavares told TPO the Scheme administrator was responsible for the delays to Mrs K's pension contributions being made therefore, in turn, responsible for the distress and inconvenience she had suffered. TPO requested that Mr Tavares provide a written response with evidence to support his position.
30. On 13 September 2024, Solange Bakery Ltd made a payment into the Scheme representing Mrs K's employee contributions, and the employer contributions from Solange Bakery Ltd, for July 2024 and August 2024, therefore at that date no pension contributions for Solange Bakery Ltd showed as unpaid.
31. Artisan Traditions Ltd did not evidence that it had paid Mrs K's May 2023 employer contribution of £44.20, or employee pension contribution of £58.93, totalling £103.13, into the Scheme. Furthermore, Solange Bakery Ltd did not address Mrs K's possible investment loss from the delayed pension contributions, nor did it (or Mr Tavares or any other person) put forward proposals to compensate her for distress and inconvenience she had suffered due to the way payments into her Scheme account were paid intermittently.
32. A breakdown of the Solange Bakery Ltd payments and the unpaid Artisan Traditions Ltd contributions has been included in Appendix One.



## **Adjudicator's Opinion**

33. Mrs K's complaint was considered by one of our Adjudicator's who concluded that further action was required by Artisan Traditions Ltd as it had failed to remit contributions that were due to the Scheme, and by Solange Bakery Ltd because those that had been paid by Solange Bakery Ltd were late. The Adjudicator's findings are summarised below: -
- The Adjudicator stated that our normal approach for cases like this would be to seek agreement from all parties as to the dates and amounts of contributions involved. However, the Employers had not sufficiently engaged with TPO's requests to provide a detailed response. So, the contribution schedule in the Appendix was produced based solely on the evidence provided by Mrs K.
  - The Adjudicator set out that the May 2023 employee pension contribution Mrs K said was deducted from her pay by Artisan Traditions Ltd, should be paid to the Scheme along with the employer's corresponding contribution for that month. The outstanding pension contributions for May 2023 amounted to £103.13 in total.
  - The Adjudicator also included a summary of the monthly contributions from Solange Bakery Ltd for the period June 2023 to July 2024 and the persistent delays to them being paid into the Scheme. It was his opinion there had been maladministration due to the late payment of the pension contributions and that as a result Mrs K may have incurred an investment loss.
  - In the Adjudicator's view, Mrs K had suffered distress and inconvenience because of the maladministration from the Employers. The Adjudicator was of the opinion that an award of £500 for non-financial injustice was appropriate in the circumstances.
34. The Employers did not provide a response to the Adjudicator's Opinion.
35. Following the Adjudicator's Opinion Mrs K informed TPO that since her pay for August 2024, further pension contributions had been paid late, or not paid at all, into the Scheme.
36. On 5 December 2024, the Scheme administrator told Mrs K that Solange Bakery Ltd had requested her enrolment be ended with that business and instead wanted to enrol her again under Artisan Traditions Ltd. The Scheme administrator also informed Mrs K that Solange Bakery Ltd would need to pay all contributions due before it could stop using the Scheme. The Scheme administrator added that Mrs K would remain as a member after Solange Bakery Ltd stopped using the Scheme.
37. Following the Adjudicator's Opinion the Scheme administrator told TPO that the employee and employer pension contributions for May 2023, totalling £103.13 had in fact been paid to her Artisan Traditions Ltd Scheme account on 11 March 2024.
38. Mrs K's complaint was passed to me to consider. I agree with the Adjudicator's Opinion to uphold the complaint.



## Ombudsman's decision

39. Mrs K has complained that she has suffered maladministration as a result of the Employers' failure to pay on time her employee pension contributions due to her Scheme account in respect of her employment with each of them. Mrs K also complained that the Employers did not pay their contributions on time to her Scheme account. Appendix One shows the date the Employers paid the contributions to Mrs K's Scheme account.
40. Under the rules of the Scheme (**the Scheme Rules**) the Employers were each obliged to pay to the Scheme, at least 3% of Mrs K's qualifying earnings in the relevant pay reference period, and the employer and employee contributions must amount to at least 8% of her qualifying earnings in the relevant pay reference period. The relevant provisions of the Scheme Rules are outlined in Appendix Two.
41. Based on the evidence provided by Mrs K, and details from her Scheme account, For May 2023, Artisan Traditions Ltd did not complete her enrolment with the Scheme until 25 June 2023. There is no dispute however that a pension contribution was deducted from Mrs K's pay despite her not being enrolled into the Scheme.
42. I find that the action of Artisan Traditions Ltd to deduct the May 2023 contribution during this period indicates its intention to enrol her in respect of May 2023 and comply with the Scheme Rules and pay pension contributions into the Scheme in respect of May 2023. The deduction would otherwise have been unlawful. Given that Mrs K was subsequently enrolled into the Scheme in June 2023, I find that the May 2023 contribution was paid late to the Scheme, even though it was deducted at a time when she was not enrolled into the Scheme.
43. The evidence shows that employee contributions for Mrs K's pay between May 2023 and July 2024 were paid late into the Scheme by the Employers, on all but one occasion. Automatic enrolment requirements in the UK, state that employers must ensure that both their own and their employees' pension contributions are paid to the pension provider promptly. Where contributions are paid electronically, they must be received by the pension provider no later than 22<sup>nd</sup> day of the month following the month in which deductions were made. This obligation is set out in the Pensions Act 2008 (**the Act**) and the Occupational and Personal Pension Regulations 2013 (**the Regulations**).
44. In accordance with the Act and the Regulations, it was the Employers' duty to ensure that contributions were remitted to the Scheme in a timely manner and no later than the 22<sup>nd</sup> day of the month following the deduction. It is clear that the Employers failed to meet this statutory obligation, and I find that this amounts to maladministration. Mrs K may have suffered an investment loss due to the late payments.
45. Artisan Traditions Ltd and Solange Bakery Ltd failed to engage with TPO to resolve Mrs K's complaint by agreeing to make up any investment loss from the delayed contributions and pay her compensation.



46. The Employers' failure to pay employee and employer contributions on time, constitutes to unjust enrichment and may have caused Mrs K to suffer a financial loss. The Employers shall take remedial action to put this right.
47. Mrs K is entitled to a distress and inconvenience award in respect of the significant ongoing non-financial injustice which she has suffered. This was exacerbated by the failure of the Employers to resolve the dispute during TPO's investigation into Mrs K's complaint.

### **Directions**

48. To put matters right, within 28 days of the date of this Determination:
- (i) Solange Bakery Ltd shall pay Mrs K £500 for the significant distress and inconvenience she has experienced.
  - (ii) Solange Bakery Ltd and Artisan Traditions Ltd shall establish with the Scheme administrator whether the late payment of contributions has meant that fewer units were purchased in Mrs K's Scheme account than she would have otherwise secured, had the contributions been paid on time; and
  - (iii) Solange Bakery Ltd and Artisan Traditions Ltd shall, on a joint and several liability basis, pay any reasonable administration fee should the Scheme administrator charge a fee for carrying out the above calculation.
49. Within 14 days of receiving confirmation from the Scheme administrator of any shortfall in Mrs K's units, Solange Bakery Ltd and Artisan Traditions Ltd shall each pay the cost of purchasing any additional units required to make up the shortfall in respect of the contributions that each of them paid late.

**Camilla Barry**

Deputy Pensions Ombudsman  
28 August 2025



## Appendix One

Payslip date	Employer contribution	Employee contribution	Entity deducting contribution	Date received by Scheme
*31/03/23	£44.20	£58.93	TVS Empire Ltd - <i>liquidated</i>	xxxx
*28/04/23	£44.20	£58.93	TVS Empire Ltd - <i>liquidated</i>	xxxx
31/05/23	£44.20	£58.93	Artisan Traditions Ltd	11/03/24
30/06/23	£44.20	£58.93	Solange Bakery Ltd	31/01/24
01/08/23	£44.20	£58.93	Solange Bakery Ltd	31/01/24
29/09/23	£44.20	£58.93	Solange Bakery Ltd	31/01/24
31/10/23	£44.20	£58.93	Solange Bakery Ltd	31/01/24
30/11/23	£44.20	£58.93	Solange Bakery Ltd	22/03/24
29/12/23	£44.20	£58.93	Solange Bakery Ltd	22/03/24
01/02/24	£44.20	£58.93	Solange Bakery Ltd	11/07/24
29/02/24	£44.20	£58.93	Solange Bakery Ltd	11/07/24
28/03/24	£44.20	£58.93	Solange Bakery Ltd	11/07/24
30/04/24	£49.40	£65.87	Solange Bakery Ltd	11/07/24
31/05/24	£49.40	£65.87	Solange Bakery Ltd	11/07/24
**30/06/24	£44.20	£58.93	Solange Bakery Ltd	11/07/24
01/08/24	£49.40	£65.87	Solange Bakery Ltd	13/09/24

*\*Pension contributions for March 23 and April 2023 were omitted from TPO's review as the trading entity TVS Empire Ltd went into liquidation on 3 May 2023.*

*\*\* Not considered to have been paid late.*



## **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.



