

Ombudsman's Determination

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| Applicant | Mr T |
| Scheme | Ford Salaried Contributory Pension Fund (the Fund) |
| Respondents | Ford Pension Fund Trustees Limited (the Trustee) |

Outcome

1. I do not uphold Mr T's complaint and no further action is required by the Fund
2. My reasons for reaching this decision are explained in more detail below.

Complaint summary

3. Mr T has complained that he has an entitlement to benefits from the Fund in the form of a return of his employee contributions which he has not received and which the Fund denies.

Background information, including submissions from the parties

4. Mr T was employed by Ford Motor Company between 1975 and 1979, was a member of the Fund and had paid pension contributions. He has contacted the National Insurance Contributions Office (**NICO**) who has confirmed that he was contracted out of SERPS and has provided a history of his contracted-out deductions which proves he was a member of the Fund. NICO has also confirmed that a Contribution Equivalent Premium (**CEP**) was paid to reinstate him back into SERPS when he left the company.
5. Mr T says that he has checked his records and he is certain that he has never received a return of the pension contributions he made to the Fund. He has asked the Fund to provide proof that he has received a return of his contributions, by providing details of the bank account it was paid into and when. The Fund has been unable to provide this information. Mr T wishes to receive a return of his contributions to the Fund plus interest.
6. Mr T invoked the Fund's Internal Dispute Resolution Procedure (**IDRP**). The Trustee in its IDRP response to Mr T and in further communication says:-

- As Mr T had less than five years' pensionable service at the time that he left service in 1979 he would only have been entitled to a refund of his contributions to the Fund.
- It has reviewed the records of the National Insurance Pension Services (**NIPS**) to see if it holds a record of pension service for Mr T. The NIPS record confirms there is no outstanding benefit due to Mr T from the Fund.
- A cheque for the refund of contributions would have been sent to Mr T by post and would not have been paid into a bank account. Due to the length of time that has elapsed since 1979 it is not possible to produce details of the cheque that was issued.
- The Trustee has no reason to believe it would not have followed the Fund rules at the time and processed and paid a cheque to Mr Butt for the refund of contributions. The Trustee therefore concludes that the Fund has extinguished its liability to Mr T in 1979 and there is no further benefit due.

Adjudicator's Opinion

7. Mr T's complaint was considered by one of our Adjudicators who concluded that no further action was required by the Trustee. The Adjudicator's findings are summarised below.
8. The Adjudicator explained that it is always difficult in situations like this to fully determine what may or may not have happened 40 years ago when Mr T left the company and whether a refund of contributions was paid to him. Therefore, the Adjudicator could only look at the position on the balance of probabilities on what is more likely to have happened at the time.
9. It is accepted by both parties that Mr T was a member of the Fund but given that he had less than five years' pensionable service when he left Ford Motor Company, the only benefit due was a refund of contributions. The evidence obtained from NICO is that the Trustee did take action to process Mr T's benefits on leaving by reinstating him into SERPS and paying a CEP. The next stage in the process would then have been to issue a cheque to Mr T in respect of his refund of contributions.
10. Mr T says he has no recollection of ever receiving a cheque and has asked for proof that this was sent. The Trustee says that given the length of time that has elapsed since 1979 it is unable to provide this. The Adjudicator could understand the Trustee's position as there is no legal requirement to keep records of payments going back 40 years.
11. The Adjudicator was of the view that, on the balance of probabilities, it is more likely than not that the Trustee did send a cheque to Mr T in respect of his refund of contributions. The onus would therefore be on Mr T to prove that a cheque was not received. The Adjudicator realised that Mr T may find this difficult, again because of

the time that has elapsed, but there is no evidence that it was not received whereas the evidence does show that the Trustee processed Mr T's benefits on leaving.

12. Mr T did not accept the Adjudicator's Opinion and the complaint was passed to me to consider. Mr T has provided his further comments which do not change the outcome. I agree with the Adjudicator's Opinion that, on the balance of probabilities, a cheque in respect of a refund of contributions was posted to Mr T's home address, and I will therefore only respond to the additional key points made by Mr T for completeness.
13. Mr T says that he lived at several addresses during his employment and Ford claim to have sent the cheque to his home address. If this is true, then a record of the address should exist within their records. Without this evidence he has no reason to believe that the Trustee did indeed follow the Fund rules at the time to process the cheque. Mr T has also asked to be provided with details of the total contributions he paid to the Fund and details of the addresses held for him on Ford's employment records.
14. Mr T also says that he is unsure why the only benefit due to him is a refund of contributions and why is he not entitled to a pension when reaching pension age. He would like to see a copy of the rules on this point. Finally, he believes that without any concrete evidence to demonstrate that a cheque was sent, not even a cheque number, this remains an outstanding point and shows a bias towards the Fund.

Ombudsman's decision

15. Our service is impartial, and we do not have a bias to any party in a complaint such as this. We only reach a decision after a careful examination of the facts or where these are not readily available, as in this complaint, by deciding on the balance of probabilities what is more likely than not to have happened.
16. The absence of some of the records is not unusual as it is more than 40 years since Mr T left the company, and it is not a legal requirement to keep records of employment for more than six years after an employee has left. Therefore, I do not find it surprising that the company or the Fund are unable to provide a comprehensive list of the addresses for Mr T between 1975 and 1979, or a complete list of his pension contributions during this period.
17. Mr T has asked why he is only entitled to a refund of contributions and not a pension. The reason is that the rules of the Fund, at the time that he left in 1979, only allowed for a pension to be provided if he had more than five years pensionable service. As Mr T only completed four years of pensionable service the only benefit due was a refund of his contributions to the Fund. This was a common feature of many pension schemes at the time. It would be helpful for the Fund to provide Mr T with a copy of the relevant Fund rules.

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18. Therefore, I do not uphold Mr T's complaint.

Anthony Arter

Pensions Ombudsman
7 October 2019