

## Ombudsman's Determination

Applicant	Mr D
Scheme	Teachers Pension Scheme ( <b>the Scheme</b> )
Respondent	London Borough of Islington ( <b>the Employer</b> )

## Outcome

1. Mr D's complaint is not upheld and no further action is required by the Employer.

## Complaint summary

2. Mr D has complained that the Employer failed to enrol him into the Scheme following his election to opt into the Scheme in December 2021. He has complained that he was not actually enrolled until January 2022.
3. Mr D has also said that, other than pension deductions on his payslips, he did not receive confirmation that he had been enrolled into the Scheme.

## Background information, including submissions from the parties

4. In September 2017, Mr D began his employment with the Employer, as a teacher, and was enrolled into the Scheme. He later opted out of the Scheme and received a refund of his contributions.
5. In 2019, following an automatic re-enrolment, Mr D opted out of the Scheme again.
6. On 30 November 2021, Mr D sent an email to the Employer and requested to be opted into a pension scheme.
7. On 1 December 2021, the Employer responded to Mr D and attached an opt in form for the Local Government Pension Scheme (**LGPS**). It said that Mr D should return the form and any identification documents by 5 December 2021.
8. On 2 December 2021, Mr D returned the opt in form to the Employer and asked to join the LGPS.
9. On 7 December 2021, Mr D received an email from the Employer which stated that he was not "in" the LGPS, rather he was a member of the Scheme – and to opt-out of the Scheme he would have to do so online. Mr D responded almost immediately to

say he was not an active member of a pension scheme, and was looking to join one (not opt-out).

10. On 8 December 2021, the Employer told Mr D it only administrated the LGPS and as he was in the Scheme it could not action his request to opt into the LGPS. It said, in order for him to opt into the Scheme, he would have to log into the Scheme's online portal at [www.teacherspensions.co.uk](http://www.teacherspensions.co.uk) or by email at [schoolspensions@islington.gov.uk](mailto:schoolspensions@islington.gov.uk).
11. On 9 December 2021, the Employer contacted Mr D and said he was not able to sign up for the LGPS as this was for support staff. It also said that Mr D was enrolled into the Scheme in September 2017 and received a refund of contributions following a successful opt out.
12. The Employer also said if Mr D wished to re-join the Scheme he would need to log into his online Scheme account at [www.teacherspensions.co.uk](http://www.teacherspensions.co.uk) and elect to re-join the Scheme. It also said a paper form could be downloaded and completed but the best method would be to opt in electronically.
13. On the same day, Mr D returned the opt in form to the Employer. The Employer said it would complete the opt in which would be effective from the January 2022 pay run.
14. On 24 January 2022, Mr D received his January payslip and discovered there were no pensions deductions. He also had not received any material relating to the Scheme. Mr D said he contacted the Employer but did not receive a response.
15. On 16 February 2022, Mr D contacted the Employer again regarding the issue.
16. On 22 February 2022, Mr D contacted the Employer's business manager.
17. On 25 February 2022, the Employer contacted Mr D and said it had actioned the opt in on 1 January 2022. It also said backdated pensions contributions would be deducted from his March 2022 salary, or they could be recovered from his salary over the next few months.
18. On 26 February 2022, Mr D confirmed he was happy for the backdated contributions to be deducted from his March 2022 salary.
19. On 21 April 2022, Mr D contacted the Employer again as he had not received any details about his pension.
20. On 22 April 2022, the Employer told Mr D he would need to register online on the Scheme's portal as the Employer could not provide log in details. Mr D said his online Scheme account was showing as "empty".
21. On 6 May 2022, Mr D followed up the issue with the Employer as his online Scheme account was not reflecting his membership, despite pension deductions having been deducted from his salary.

22. On 28 May 2022, Mr D contacted the Employer again as he had not received a response.
23. On 31 May 2022, Mr D emailed the Employer as the Scheme had informed him that his online Scheme account was showing no service. It also said that, if he was already paying into the Scheme, he would need to speak with the Employer to update his service information.
24. On the same day, the Employer contacted Mr D as it could not find the opt in form sent on 9 December 2021. It asked Mr D to resend the email so it could pass it onto the Scheme and apologised for the error. Following this Mr D says he contacted The Pensions Regulator (**TPR**).
25. On 1 June 2022, TPR requested that Mr D provide it with the Employer's details.
26. On 2 June 2022, Mr D emailed the original application form to the Employer but did not receive a response.
27. On 8 June 2022, Mr D provided TPR with the Employer's details.
28. On 21 June 2022, Mr D contacted the Employer again to see if there was an update as he could see no change to his Scheme online portal.
29. On 4 July 2022, Mr D chased the Employer regarding the issue.
30. On 22 July 2022, Mr D raised a formal complaint with the Employer.
31. On 25 July 2022, the Employer responded to Mr D and asked how he opted into the Scheme. In response, Mr D provided the original application form and confirmed it had previously been sent to the Employer by email.
32. On 27 July 2022, the Employer said either the form had not been passed onto the Scheme or it had been rejected by the Scheme. It said that, if it had not been uploaded, it would make a retrospective election to opt Mr D into the Scheme. If it had been uploaded the Employer said it would look into why it was not showing on Mr D's Scheme's profile or if it had been rejected.
33. On 5 August 2022, Mr D brought his complaint to The Pensions Ombudsman (**TPO**).
34. On 23 November 2023, the Employer provided its formal response to Mr D's complaint. It apologised for the issues and said it had worked with the Scheme and updated Mr D's membership status.
35. The Employer confirmed that, once deductions began in March 2022, all deductions made had always been paid to the Scheme on a monthly basis. It also said contributions were backdated to January 2022 and paid over to the Scheme on 7 April 2022.
36. The Employer emphasised that contributions continued to be paid to the Scheme on a monthly basis and there had been no underpayment or loss of interest. It added

that without the membership election to revoke the previous opt out, the Scheme would not show on Mr D's online Scheme account and it was the Scheme administrator which determined when the election was accepted, not the Employer.

37. The Employer also said the election to opt into the Scheme had taken place in December 2021, so the Scheme had accepted this from January 2022.
38. Mr D provided copies of the payslips that he held for the period from December 2021 to August 2022, which detailed the pension contributions deducted from his pay and the corresponding employer contributions. A breakdown of the deductions has been included in the Appendix.
39. On 15 December 2022, TPO wrote to the Employer and asked for more information in response to Mr D's complaint. This request was repeated on 24 January 2023.
40. On the same day, the Employer responded to TPO. It reiterated that all contributions taken from Mr D's salary had been paid across to the Scheme on a monthly basis. It also said that, upon receipt of the opt in form for the Scheme, as per the Scheme regulations (**the Regulations**), Mr D's membership was accepted from the following month.
41. On 2 February 2022, the Employer provided further information to TPO. It reiterated that, following an enquiry by Mr D to the LGPS team on 30 November 2021, Mr D completed an LGPS election form on 1 December 2021 that was sent to the LGPS administrators on 2 December 2021. However, the LGPS was a scheme for local government support staff and not for teachers.
42. The Employer said Mr D then completed the correct election for the Scheme which revoked his previous opt out and it had correctly applied the Regulations.
43. The Employer also said it was unsure why Mr D had emailed the LGPS team to enter the LGPS as he had an online account with the Scheme and as a member of the teaching staff had previously engaged with the Scheme website and portal. It also said instead of using the Scheme portal to opt in Mr D had downloaded a paper form and sent this by email.
44. Mr D's current position is that he was told that he would be enrolled in December 2021 as long as the LGPS form was received by the Employer by 5 December 2021. However, due to the Employer's administrative error, he was told that he had applied to the wrong scheme after this deadline. But for this error, he would have been enrolled on time.
45. He also said that he has suffered significant distress and inconvenience during his attempts to put the matter right.

## **Caseworker's Opinion**

46. Mr D's complaint was considered by one of our Caseworkers who concluded that no further action was required by the Employer. The Caseworker's findings are summarised below:-
- The Caseworker stated that, having reviewed the evidence, the earliest Mr D could have been enrolled into the Scheme was January 2022 and this was when he was eventually enrolled into the Scheme in accordance with the Regulations.
  - No employer or employee pensions deductions were due for December 2021.
  - Even if Mr D had submitted the correct opt in form for the Scheme in December 2021, the Regulations would not have allowed his enrolment until the following month.
  - Once the Employer was made aware that no contributions were deducted for January and February 2022, it acted swiftly and ensured Mr D's contributions were backdated, deducted from his salary and paid in full in March 2022.
  - Although Mr D had to chase the Employer on several occasions, the Caseworker did not think this was sufficient to warrant an award for distress and inconvenience.
  - As a Teacher, Mr D was not entitled to be enrolled into the LGPS and once this error was discovered, the Employer explained the actions required for Mr D to be enrolled into the Scheme.
  - The issue of contributions not being paid across to Scheme was not the fault of the Employer. The error was down to the Scheme administrators who updated Mr D's pensionable service once the opt in election was received.
47. Mr D did not agree with the Caseworker's Opinion and the complaint was passed to me to consider. I agree with the Caseworker's Opinion.

## **Ombudsman's decision**

48. Mr D has complained that the Employer failed to enrol him into the Scheme following his December 2021 election to opt in, and was not actually enrolled until January 2022.
49. I find that Mr D was correctly enrolled into the Scheme in January 2022 in accordance with the Regulations. As this was the earliest Mr D could have been enrolled into the Scheme, no contributions were due for December 2021.
50. Mr D was employed as a teacher and he was not eligible to be enrolled into the LGPS. I find that the opt in form he initially completed in December 2021 was for the incorrect scheme. Once the Employer identified the error it promptly provided assistance to Mr D for him to be enrolled into the correct scheme.

51. The Employer paid all contributions across following Mr D's decision to opt into the Scheme. I therefore find that the issue of the payments not showing up in Mr D's online Scheme account was due to an error by the Scheme administrator and not caused by the Employer.
52. I acknowledge the payments due for January and February were not paid into the Scheme on time. As a result, Mr D contacted the Employer on several occasions. However, this error was subsequently rectified by the Employer and all future deductions were paid on time.
53. I find that the level of distress and inconvenience suffered by Mr D is nominal. Therefore, he is not entitled to an award for distress and inconvenience.

**Dominic Harris**

Pensions Ombudsman  
7 December 2023

**Appendix**

Date	Employee contributions	Employer contributions
17/12/2021	£0	£0
26/01/2022	£0	£0
25/02/2022	£0	£0
31/03/2022	£1,319.73	£3,063.84
30/04/2022	£439.91	£1,021.28
31/05/2022	£224.58	£618.37
30/06/2022	£439.91	£1,021.28
31/07/2022	£439.91	£1,021.98
31/08/2022	£439.91	£1,021.28