

Ombudsman's Determination

Applicant	Ms Y
Scheme	NEST (the Scheme)
Respondents	Lifeways Group (the Employer)

Outcome

1. Ms Y's complaint is upheld and, to put matters right, the Employer shall ensure that Ms Y 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 £500 for the serious distress and inconvenience it has caused her.

Complaint summary

3. Ms Y has complained that the Employer, despite deducting contributions from her pay, has failed to remit those payments to the Scheme.
4. The available evidence shows that £542.40 in pension contributions were paid to the Scheme late in November 2022, but this did not include any amount to cover lost returns (if any) over the period in which that amount was not invested in the Scheme.

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 September 2021, Ms Y began her employment with the Employer.
7. In January 2022, Ms Y was enrolled into the NEST pension scheme.
8. Between January 2022 and August 2022, Ms Y had her employee pension contributions deducted from her pay (**Appendix One**).
9. In September 2022, Ms Y became aware that her contributions were not being paid into her NEST account.

10. On 14 September 2022, Ms Y formally complained to her Employer and requested a comprehensive explanation by 23 September 2022.
11. In November 2022, the Employer paid the outstanding pension contributions into Ms Y's NEST account.
12. On 18 November 2022, Ms Y brought her complaint to the Pensions Ombudsman (TPO).
13. Ms Y provided copies of payslips for the period from January 2022 to August 2022, which detailed the employee contributions deducted from her pay, as well as the employer contributions. These contributions amounted to £542.40.
14. In July 2023, Ms Y ended her employment with the Employer.
15. On 12 May 2024, Ms Y confirmed that the Employer had since paid all the relevant unpaid contributions to her NEST account in November 2022. However, this payment did not account for any investment loss that she had suffered during the time when these contributions were not invested.
16. On 24 February 2025, TPO contacted the Employer with details of Ms Y's complaint and asked for its formal response.
17. TPO had not received a response from the Employer and as a result the Adjudicator issued his Opinion on the case.

Adjudicator's Opinion

18. Ms Y'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 the contributions that were due to the Scheme. The Adjudicator's findings are summarised below:-
 - Having reviewed the available evidence, it was the Adjudicator's opinion that Ms Y's contributions had been paid into the Scheme following a significant delay. In total £542.40 in late pension contributions were paid into Ms Y's Scheme account but the Employer did not provide any evidence to explain the delay nor did it carry out a loss assessment to ensure Ms Y had not suffered financial detriment. So, in the Adjudicator's opinion an error had occurred, and the Employer was responsible.
 - The Adjudicator said that he had no reason to doubt the information provided by Ms Y. He confirmed that this was consistent with the payslips provided by Ms Y as well as the letters from the Scheme administrator. The Adjudicator also said that the Employer's level of engagement fell far short of what the Ombudsman would expect. The Employer's failure to engage and resolve this issue at an earlier date meant the process has taken far longer than otherwise should have been the case.

- So, in the Adjudicator's opinion, contributions had been deducted from Ms Y's salary and were only paid into the Scheme after a significant delay. As a result of its maladministration, Ms Y was not in the financial position she ought to be in due to the impact of potential investment loss which should be remedied.
 - Furthermore, in the Adjudicator's view, Ms Y had suffered serious distress and inconvenience due to the Employer's maladministration. The Adjudicator was of the opinion that an award of £500 for non-financial injustice was appropriate in the circumstances.
19. 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

20. Ms Y has complained that the Employer has not paid all the contributions due to her Scheme account when they were due.
21. I find that employee contributions were deducted but held back by the Employer and not paid into the Scheme at the appropriate time. The Employer failed to rectify this and did not adequately engage with TPO.
22. Under the rules of the Scheme (**the Scheme Rules**) the Employer was obliged to pay to the Scheme, at least 3% of Ms Y's qualifying earnings in the relevant pay reference period, and the employer and employee contributions must amount to at least 8% of Ms Y's qualifying earnings in the relevant pay reference period. The relevant provisions of the Scheme rules are outlined in Appendix Two.
23. I find that the Employer acted in breach of Scheme Rules by not paying the contributions due between January 2022 and August 2022 in a timely fashion. The Employer's failure to pay all employee and employer contributions into the Scheme on time amounts to unjust enrichment and has caused Ms Y to suffer a financial loss. This amounts to maladministration. The Employer shall take remedial action to put this right.
24. Ms Y is entitled to a distress and inconvenience award in respect of the serious and ongoing non-financial injustice which she has suffered. This was exacerbated by its failure to fully respond during TPO's investigation into Ms Y's complaint.

Directions

25. To put matters right, the Employer shall, within 28 days of this Determination:
- (i) pay Ms Y £500 for the serious distress and inconvenience she has experienced;

- (ii) establish with the Scheme administrator whether the late payment of contributions has meant that fewer units were purchased in Ms Y's Scheme account than he would have otherwise secured, had the contributions been paid on time; and
 - (iii) pay any reasonable administration fee should the Scheme administrator charge a fee for carrying out the above calculation.
26. Within 14 days of receiving confirmation from the Scheme administrator of any shortfall in Ms Y's units, pay the cost of purchasing additional units required to make up the shortfall.

Pensions Ombudsman

23 October 2025

Appendix One

Date contributions were due	Employee pension contribution	Employer pension contribution	Date contributions were paid
28 January 2022	£39.20	£23.52	23 November 2022
28 February 2022	£55.20	£33.12	23 November 2022
28 March 2022	£39.20	£23.52	23 November 2022
28 April 2022	£42.68	£25.61	23 November 2022
28 May 2022	£38.68	£23.21	23 November 2022
28 June 2022	£46.68	£28	23 November 2022
28 July 2022	£38.68	£23.21	23 November 2022
28 August 2022	£38.68	£23.21	23 November 2022
Subtotal contribution value:	£339	£203.40	N/A
Total contribution value:	£542.40		

Appendix Two

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.