

## Ombudsman's Determination

Applicant	Mr T
Scheme	NEST Pension Scheme ( <b>the Scheme</b> )
Respondent	Marshall Eaton Holdings Limited ( <b>the Employer</b> )

## Outcome

1. Mr T's complaint is upheld and, to put matters right, the Employer shall pay £2,463.24 into the Scheme. The Employer shall ensure that Mr T is not financially disadvantaged by its maladministration. It shall also arrange for any investment loss to be calculated and paid into the Scheme.
2. In addition, the Employer shall pay Mr T £1,000 for the serious distress and inconvenience it has caused him.

## Complaint summary

3. Mr T has complained that the Employer, despite deducting contributions from his pay, has failed to pay them into the Scheme.
4. Mr T has said that the missing contributions amounted to £2,463.24. This figure represents employee contributions of £1,407.57 and employer contributions of £1,055.67.

## 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 August 2021, Mr T began his employment with the Employer.
7. Between October 2021 and July 2022, the Employer failed to pay pension contributions into the Scheme.
8. On 8 January 2023, Mr T brought his complaint to The Pensions Ombudsman (**TPO**).
9. Mr T provided copies of the payslips that he held for the period from October 2021 to July 2022, which detailed the pension contributions deducted from his pay and the corresponding employer contributions. These deductions amounted to £2,463.24. A breakdown of the deductions has been included in Appendix one.

10. On 31 January 2024, TPO asked the Employer for its formal response to Mr T's complaint. This request was repeated on 6 March 2024.
11. On 24 April 2025, TPO chased the Employer again. But the Employer failed to respond by the deadline.

### **Adjudicator's Opinion**

12. Mr T'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:-
  - 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, as the Employer had not responded to any of TPO's communications, she had to base her Opinion solely on the information provided by Mr T.
  - The Adjudicator said that she had no reason to doubt the information provided by Mr T. So, in the Adjudicator's Opinion, on the balance of probabilities, contributions had been deducted from Mr T'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, Mr T was not in the financial position he ought to be in.
  - In the Adjudicator's view, Mr T 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.
13. 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**

14. Mr T has complained that the Employer has not paid all the contributions due to his Scheme account.
15. I find that 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 engage with TPO or Mr T. It has also failed to respond to the Adjudicator's Opinion.
16. Under the rules of the Scheme (**the Scheme Rules**) the Employer was obliged to pay to the Scheme, at least 3% of Mr T's qualifying earnings in the relevant pay reference period, and the employer and employee contributions must amount to at least 8% of Mr T's qualifying earnings in the relevant pay reference period. The relevant provisions of the Scheme Rules are outlined in Appendix Two.

17. My view is that the Employer has acted in breach of the Scheme Rules by not paying the contributions due between October 2021 and July 2022. The Employer's failure to pay employee and employer contributions into the Scheme amounts to unjust enrichment and has caused Mr T to suffer a financial loss. The Employer shall take remedial action to put this right.
18. Mr T is entitled to a distress and inconvenience award in respect of the serious ongoing non-financial injustice which he has suffered. This was exacerbated by its failure to respond during TPO's investigation into Mr T's complaint.

### **Directions**

19. To put matters right, the Employer shall, within 28 days of the date of this Determination:
  - (i) pay Mr T £1,000 for the serious distress and inconvenience he has experienced;
  - (ii) pay £2,463.24 into Mr T's Scheme account. This figure represents the amount that, according to the figures provided by Mr T, have been deducted from his pay, but not paid into the Scheme account. It also includes the employer contributions for the relevant period which should have also been paid but have not been to date;
  - (iii) establish with the Scheme administrator whether the late payment of contributions has meant that fewer units were purchased in Mr T's Scheme account than he 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 Mr T's units, pay the cost of purchasing any additional units required to make up the shortfall.

**Camilla Barry**

Deputy Pensions Ombudsman

26 September 2025

**Appendix One**

Date	Employee contributions	Employer contributions
Oct 2021	£110.07	£146.76
Nov 2021	£110.07	£146.76
Dec 2021	£110.07	£146.76
Jan 2022	£110.07	£146.76
Feb 2022	£110.07	£146.76
Mar 2022	£110.07	£146.76
Apr 2022	£110.07	£146.76
May 2022	£110.07	£146.76
Jun 2022	£110.07	£146.76
Jul 2022	£65.04	£86.73

## **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.