

Ombudsman's Determination

Applicant	Longhurst Group
Scheme	Social Housing Pension Scheme (the Scheme)
Respondents	The Pensions Trust (TPT)

Outcome

1. Longhurst Group's complaint against TPT is partly upheld, but there is a part of the complaint I do not agree with. To put matters right for the part that is upheld TPT shall pay Longhurst Group £2,500 for its extremely poor handling of this case.
2. My reasons for reaching this decision are explained in more detail below.

Complaint summary

3. Longhurst Group has complained that it is being asked by TPT to pay an additional £47,275.69 in order to enrol five members of staff into the Scheme when, almost a year earlier, it was told only £23,947.29 was required. In particular, Longhurst Group says that had it been informed from the outset of the correct figure it would have considered compensating its staff in a different way.

Background information, including submissions from the parties

4. In June 2014, Longhurst Group identified irregularities in the pension deductions for five of its employees. The employees were all enrolled around 2-3 years later than they should have been due to irregularities in their pension contributions deductions. It subsequently contacted TPT asking how it could rectify a mistake that it had made in that five of its employees had not been enrolled in the Scheme when they should have been. Longhurst Group sought to backdate their memberships to the dates they would have been enrolled, had it not been for these irregularities.
5. From June 2014 to September 2014, Longhurst Group and TPT liaised on the calculations and the arrangements for Longhurst Group to pay the contributions. TPT advised Longhurst Group that the combined member and employer contributions for the five employees was £23,947.29.
6. On 15 September 2014, Longhurst Group paid £23,947.29 to TPT.

7. On 7 May 2015, TPT telephoned Longhurst Group stating that it had used an incorrect method in calculating the five employees' date of joining the Scheme. It confirmed that the actual cost of enrolling these members was much higher than initially calculated.
8. On 12 May 2015, TPT emailed Longhurst Group confirming that the total cost of backdating the five employee's correct date of joining the Scheme was £71,222.98, which after deducting the amount already paid left an outstanding amount of £47,275.69.
9. On 31 May 2015, TPT wrote to Longhurst Group and apologised for how it "misled as to the real cost of backdating the employee's pensionable service", it further confirmed that it should not have taken TPT as long as it did to inform Longhurst Group of the correct cost.

Adjudicator's Opinion

10. Longhurst Group's complaint was considered by one of our Adjudicators who concluded that further action was required by TPT. The Adjudicator's findings are summarised briefly below:-
 - TPT has agreed that Longhurst Group was initially given incorrect information about the five employees' date of joining the Scheme, so there is no dispute that a problem has occurred.
 - Longhurst Group has said that it is entitled to receive professional and accurate information from TPT, and TPT should be expected to stand by its original advice and costings. However, the initial error was made by Longhurst Group, in omitting to enrol the five members into the Scheme and TPT was not at fault in this respect. Longhurst Group intended that the five members in question should be enrolled in the Scheme. Further, there is no dispute that the revised cost figure of £71,222.98 was correctly calculated. The Adjudicator was of the view that TPT had no choice but to request a further £47,275.69 to be paid by Longhurst Group in order to remedy the situation.
 - The Adjudicator appreciated that Longhurst Group had said that had it been provided with the correct figure of £71,222.98 it would have considered other options on how to compensate its employees. However, Longhurst Group has not said what alternative arrangements it would have made.
 - TPT had said that prior to advising Longhurst Group of the costs, Longhurst Group had already committed itself to funding the enrolment of the five employees. So, the Adjudicator was not persuaded that had Longhurst Group been provided with the correct figures initially it would have acted differently.

- Longhurst Group has suffered a loss of expectation as a result of TPT's error. The additional cost involved in reinstating the five members was significant. The size of the financial error and also the delay in dealing with this has no doubt caused Longhurst Group considerable disappointment and perhaps some short term financial difficulty. As such the Adjudicator was of the view that TPT should pay Longhurst Group £2,500 to reflect this.

11. Longhurst Group did not accept the Adjudicator's Opinion and the complaint was passed to me to consider. Longhurst Group provided its further comments which do not change the outcome. I agree with the Adjudicator's Opinion and I will therefore only respond to the key points made by Longhurst Group for completeness.

Ombudsman's decision

12. Longhurst Group has said it based its decision on TPT's advice that in order to enrol five members of staff into the Scheme only £23,947.29 was required and had it known of the correct figure from the outset, it would have considered various options such as a lump sum payment into a defined contribution scheme. However, as explained by the Adjudicator in the Opinion, prior to TPT advising Longhurst Group of the costs, Longhurst Group had already committed itself to funding the enrolment of the five employees, so, I think it is more likely than not that Longhurst Group would have enrolled the five members of staff into the Scheme.
13. Given the way in which the matter has been handled by TPT, I agree with the Adjudicator that the award in respect of non-financial loss should be £2,500, due to the very significant error and delay, which caused Longhurst Group considerable disappointment and financial difficulty.
14. Therefore, I partially uphold Longhurst Group's complaint.

Directions

15. Within 21 days of the date of this Determination, TPT shall pay Longhurst Group £2,500 for the reasons that I have set out in this Determination.

Anthony Arter

Pensions Ombudsman
20 March 2018