

## Ombudsman's Determination

Applicant	Mrs A
Scheme	Standard Life Group Personal Pension (the <b>GPP</b> )
Respondents	Skills For Enterprise Limited and Mr David Ryan

## Outcome

1. Mrs A's complaint is upheld and to put matters right, Mr David Ryan should pay to Mrs A's GPP the missing pension contributions with interest, and £500 for the significant distress and inconvenience caused.
2. My reasons for reaching this decision are explained in more detail below.

## Complaint summary

1. Mrs A's complaint is against Mr Ryan, the sole director of Skills For Enterprise Limited, for failing to ensure that both employer and employee pension contributions were sent to the Standard Life GPP for the period May 2012 to June 2013.

## Background information, including submissions from the parties

2. Standard Life first notified Mrs A of the non-receipt of the expected pension contributions from her employer in February 2013. Standard Life subsequently confirmed that previous payments had not been received dating back to May 2012.
3. Pension contributions were outlined on Mrs A's monthly salary slips. Both the employer's and employee's contributions were stated on each pay slip and deducted for the period May 2012 to June 2013, without any contributions being received by Standard Life. The total unpaid employer contributions were £672.91 and the unpaid employee contributions were £538.37.
4. Mr Ryan provided assurances via text message to Mrs A that her pension contributions would be paid, and Mrs A was advised on several occasions that contributions would be forwarded to Standard Life.

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5. In 2015 Mrs A approached The Pensions Regulator with regard to the missing pension contributions. The Pensions Regulator had gained agreement from Mr Ryan to make the outstanding payments, however, these were not forthcoming and contact was lost.
6. After receiving legal advice in April 2016 the Pensions Regulator advised Mrs A to refer her complaint against Skills For Enterprise Limited to The Pensions Ombudsman or The Pensions Advisory Service (**TPAS**). The complaint was looked at by TPAS, however, as Mr Ryan did not respond to any requests for contact, the complaint was passed to The Pensions Ombudsman Service in December 2016.
7. Skills For Enterprise Limited was officially dissolved on 10 May 2016.

### Adjudicator's Opinion

8. Mrs A's complaint was considered by one of our Adjudicators who concluded further action was required by Mr Ryan. The Adjudicator's findings are summarised briefly below:-
  - Skills for Enterprise Limited, the employer, was responsible for ensuring that Mrs A's pension contributions were sent to the GPP provider Standard Life in a timely manner. The missing employer contributions of £672.91 have been checked against pay slips. The non-receipt of the missing employee deductions of £538.37 have also been confirmed making the total of missing contributions of £1,211.28.
  - The Pensions Regulator confirmed the GPP was terminated in June 2013, which corresponds to the last date pension contributions were deducted from Mrs A's salary slips. Mrs A continued to work for the company until June 2014, but is not making any claims for the period between the GPP being terminated and her last date of employment.
  - Skills For Enterprise Limited was dissolved on 10 May 2016. Because of this a complaint cannot be brought against Skills For Enterprise Limited without applying for administrative restoration. As the sole director of the company, Mr Ryan was responsible for the specific task of collecting and transferring both the employer and employee contributions to Standard Life.
  - In some circumstances directors of a company can be held to be personally liable, either under statute or more appropriately in this case, where they act in a way which creates a personal obligation. Mr Ryan was personally carrying out acts of administration of the GPP and therefore, falls within the jurisdiction of the Pensions Ombudsman Service as an 'administrator', section 146 (4) and (4A) of the Pension Schemes Act 1993, and regulations thereunder.
  - As Mr Ryan was carrying out administrator duties in relation to the GPP he is personally liable for his actions as a de facto administrator.

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9. Mr Ryan did not respond to the Adjudicator's Opinion and the complaint was passed to me to consider.

**Ombudsman's decision**

10. I agree with the Adjudicator's Opinion, summarised above. I also note that Mr Ryan has not submitted any evidence in support of his position. Therefore, I uphold Mrs A's complaint.

**Directions**

11. Within 21 days Mr Ryan shall pay to Standard Life, the missing payments totalling £1,211.28 plus simple interest, calculated from the date of each missing monthly payment, to the date of payment at the rate for the time quoted by the reference banks.
12. Within 21 days Mr Ryan shall also pay Mrs A 2,000, for the significant distress and inconvenience caused as a result of the maladministration.

**Anthony Arter**

Pensions Ombudsman  
20 July 2017