

Ombudsman's Determination

Applicant	Mrs I
Scheme	NOW: Pensions Trust (the Plan)
Respondent	NOW: Pensions

Outcome

1. Mrs I's complaint is upheld and to put matters right within 21 days NOW: Pensions are to:
 - Provide Mrs I with a correct benefit statement showing that all missing contributions have been paid into the Plan;
 - Calculate and pay into the Plan any loss of investment growth that Mrs I has suffered for the funds not being in her pension; and
 - Pay Mrs I £500 for the distress and inconvenience she has suffered.
2. My reasons for reaching this decision are explained in more detail below.

Complaint summary

3. Mrs I has complained that her pension contributions have not been paid into the Plan, even though they have been deducted from her pay. She also complains about the service she has received from NOW: Pensions.

Background information, including submissions from the parties

4. On 3 August 2015, Mrs I received a letter from NOW: Pensions showing that the Plan value was £489.90. Mrs I telephoned NOW: Pensions and queried the amount as she did not believe it was correct.
5. NOW: Pensions contacted Mrs I on 20 August 2015, and it said all contribution payments were correct and the Plan value remained the same as shown in the letter of 3 August 2015.
6. Mrs I did not agree with the figures so she emailed her employer and asked why contributions had been deducted from her pay but not paid to NOW: Pensions.

On 4 September 2015, Mrs I's employer emailed and assured her that all contributions had been paid to NOW: Pensions. It apologised that this had only happened recently due to a reconciliation exercise. It said her contributions should now be up to date and could be viewed on the NOW: Pensions online portal.

7. On 16 September 2015, NOW: Pensions wrote to Mrs I and said her benefits within the Plan were £461.38. Mrs I remained dissatisfied that the fund value amount was incorrect and raised a further complaint. NOW: Pensions wrote to her on 27 October 2015, it said it had found a number of contributions were missing from her plan since November 2014 to September 2015. It was trying to reconcile the data and would contact her when the matter had been rectified.
8. No further action was taken until 4 December 2015, when NOW: Pensions contacted Mrs I and said it needed further information from her employer and that the issues were ongoing.
9. Mrs I raised a complaint through NOW: Pensions' Internal Dispute Resolution Procedure (**IDRP**) on 6 January 2016. She did not receive a response so chased this on 16 February 2016. Mrs I then contacted her local Member of Parliament (**MP**) to help her obtain a response. NOW: Pensions wrote to Mrs I's MP on 25 February 2016, and said it was looking into matters and would provide a response to Mrs I shortly. On 25 February 2016, it wrote to Mrs I and said it would provide a formal response under the first stage of the IDRP by 20 March 2016.
10. On 30 March 2016, NOW: Pensions provided its IDRP stage one, it said a reconciliation was underway and this was its top priority. It offered Mrs I £125 for the distress and inconvenience she had suffered.
11. Mrs I invoked stage two of the IDRP on 4 May 2016. It was not until 12 July 2016, that NOW: Pensions provided a further update to Mrs I. It said it was still completing the reconciliation exercise and was unable to provide a breakdown of the contributions. Mrs I remained dissatisfied due to the length of time it was taking to resolve the matter and brought her complaint to the Pensions Ombudsman.
12. Through the Pensions Ombudsman's investigation NOW: Pensions agreed in October 2016, that it would increase the distress and inconvenience award to £500. On 19 October 2016 NOW: Pensions said it would take a couple of weeks, to issue the corrected benefits statement. At the date of this determination Mrs I had still not received this.

Adjudicator's Opinion

13. Mrs I's complaint was considered by one of our Adjudicators who concluded that further action was required by NOW: Pensions. The Adjudicator's findings are summarised briefly below:

- NOW: Pensions had agreed it was at fault because Mrs I has not received an up to date statement showing the contributions that have been paid into the Plan. There is no dispute that a problem has occurred and that Mrs I needs reassurance that her Plan and contributions are correct.
 - Mrs I has not received correct information from NOW: Pensions about the Plan since August 2015,
 - NOW: Pensions provided infrequent responses to Mrs I's queries and it did not comply with its own deadline when responding under the IDR. Furthermore Mrs I had to contact her MP to obtain a response from NOW: Pensions.
 - NOW: Pensions said it was unable to provide a correct statement because it was waiting for contributions and a reconciliation exercise to be completed by the employer. Mrs I received an email from her employer on 4 September 2015, which confirmed all the contributions had been paid to NOW: Pensions. It has been over a year since NOW: Pensions have had the correct contributions from the employer and it has still not provided a corrected statement to Mrs I.
 - It seems clear that the employer has followed its responsibility in paying the contribution to NOW: Pensions. It is for NOW: Pensions to follow its duty, as the Plan administrator, to provide Mrs I with a corrected statement showing all the contributions have been paid into the Plan.
 - This matter has been ongoing for over a year which is an unacceptable period of time to expect Mrs I to wait for reassurance that her contributions have been paid into the Plan.
 - Mrs I has been trying to rectify the matter for over a year and this has still not been resolved. This would have caused her significant distress and inconvenience and she should be compensated for this.
14. Mrs I accepted the Adjudicator's Opinion. However, NOW: Pensions did not provide a response or comply with the suggested outcome. I agree with the Adjudicator's Opinion, summarised above.

Ombudsman's decision

15. The complaint is upheld against NOW: Pensions. It has not provided Mrs I with a correct benefit statement or paid the suggested distress and inconvenience award as set out in the Adjudicator's opinion.
16. NOW: Pensions verbally agreed that it would pay Mrs I £500 for the distress and inconvenience she has suffered. However, it said it would only issue this once the correct statement had been issued. On 19 October 2016, NOW: Pensions said it would be a couple of weeks for the corrected statement to be issued.

It is now considerably longer than two weeks since NOW: Pensions made that promise and the corrected statement has still not been issued.

17. NOW: Pensions have received numerous opportunities to resolve this matter and it has not done so. It had 14 days after the Adjudicator's Opinion to correct the situation or to provide comments disagreeing with the Adjudicator's Opinion but it failed to take any action. The Adjudicator also gave NOW: Pensions a further opportunity to provide a response and this was ignored.
18. As NOW: Pensions have been unresponsive, there is no option but to issue a formal determination on the case with directions that are enforceable in the county court in the event NOW: Pensions fail to comply.
19. I uphold Mrs I's complaint.

Directions

20. Within 21 days NOW: Pensions are to:

- Provide Mrs I with a correct benefit statement showing that all missing contributions have been paid into the Plan;
- Calculate and pay into the Plan any loss of investment growth that Mrs I has suffered as a result of contributions being paid late into the Plan; and
- Pay Mrs I £500 for the distress and inconvenience she has suffered.

Karen Johnston
Deputy Pensions Ombudsman
11 January 2017