

Ombudsman's Determination

Applicant Ms B

Scheme The Royal Mail Defined Contribution Plan (the "Scheme")

Respondents Zurich Assurance Ltd

Outcome

1. I do not uphold Ms B's complaint and no further action is required by Zurich.
2. My reasons for reaching this decision are explained in more detail below.

Complaint summary

3. Ms B's complaint is that Zurich, the administrators of the pension Scheme, is that they automatically re-enrolled her into the Scheme without informing her and will now not refund her contributions.

Background information, including submissions from the parties

4. Ms B is currently works 20 hours per week for royal mail, as a postwoman.
5. In July 2015, Ms B was automatically enrolled into a workplace pension scheme and subsequently opted out in August 2015. However, Ms B was subsequently re-enrolled into the Scheme in March 2016.
6. Zurich wrote to Ms B informing her of this in March 2016, however she says she did not receive this letter. As a result, approximately £250 of pension contributions were deducted from Ms B's salary.
7. In August 2016, Ms B phoned Zurich in order to opt out of the Scheme, however she was not eligible to receive a refund of her contributions as she had not opted out of the scheme within 30 days of re-joining it. As Ms B says she did not receive the letter confirming her re-enrolment, she submits that it is unjust that she has been denied a refund of the contributions which were deducted from her salary.
8. Ms B's complaint was considered by one of our Adjudicators who concluded that no further action was required by Zurich. The Adjudicator's findings are summarised below.

- Under the Pensions Act 2008 employers must enrol certain staff into pension schemes and pay contributions towards them.
 - TPAS has already investigated the internal processes at Zurich and found that its employees are re-enrolled after 12 months of service.
 - As Ms B did not contact Zurich within her one month opt-out period, her contributions of approximately £250 could not be refunded to her.
9. Ms B did not accept the Adjudicator's Opinion, I have outlined her reasons for disagreeing below.
- Ms B did not think she should have been automatically re-enrolled 12 months after her initial enrolment and decision to opt-out of the Scheme. She believes it is unfair that she is required to opt out of the Scheme after each 12 months of service with Royal Mail.
 - Ms B contended that she should be refunded the full amount of contributions paid into the Scheme immediately as she does not want to wait until retirement to draw this money.
 - Ms B also says that she has already accrued a pension with BT, having worked there for over 30 years.

Summary of the Ombudsman's Determination and reasons

10. Having carefully considered the evidence provided, I am satisfied that Ms B's automatic re-enrolment into the Scheme conforms to current guidance provided to employers operating a work based pension scheme.
11. The Pensions Act 2008 introduced the legislative scope for automatic enrolment for employees. This became active in October 2012; placing an obligation on all employers (irrespective of the size of the company) to place employees into a pension scheme and contribute towards it.
12. The automatic-enrolment legislation was implemented following a general government consensus that the system was inadequate to prevent future pensioners from falling into poverty. Employers are now bound by rules which instruct them to contribute towards workers' workplace pension schemes.
13. I understand that Ms B has disputed being re-enrolled into the Scheme after she chose to opt out in 2015. If I were to uphold Ms B's complaint, I would be required to find that Zurich had incorrectly re-enrolled Ms B back into the Scheme. In considering this issue, I have consulted The Pensions Regulators (TPR) auto enrolment guidance and do not consider Zurich to have acted inappropriately.

14. With regard to re-enrolment TPR highlights that employers are obliged to “put their jobholders back into pension saving” and “must do this on a periodic basis”. The guide provided by TPR states that “just as with automatic-enrolment it is the employer’s responsibility to make arrangements to establish active membership of the pension scheme again”. Furthermore, it is not maladministration for employers to elect to re-enrol employees into the scheme as frequently as every 12 months; this can also be found in the guidance: “some employers may choose to annually re-enrol workers if they have ceased membership in the year”.
15. TPR’s guidance also outlines that employees must be provided with information informing them that they were enrolled in a pension scheme. I understand that Ms B was sent this information from Zurich on 31 March 2016. This letter directed Ms B to view general information about the scheme via a link to Zurich’s website.
16. Ms B says that the aforementioned letter was not received and she therefore was unaware of her re-enrolment into the Scheme. Furthermore, Ms B has told the Adjudicator she was only made aware of the re-enrolment when she viewed a payslip; which she commented she does not do often.
17. Zurich has provided a copy of the letter sent to Ms B on 31 March 2016. As I have stated in previous determinations, I cannot prove that a letter was sent but as the letter was correctly addressed I cannot exclude the possibility that Ms B may have overlooked the letter through human error. So, on the balance of probabilities, it is highly unlikely that the letter was not sent. As such, I find that the letter was sent and received by Ms B but she failed to take the appropriate action. In any case, as I have mentioned above Ms B was adequately notified of her re-enrolment into the Scheme through her payslips, which she chose not to view. In this instance, it would be unreasonable to attribute any blame to Zurich.
18. In making this determination, I have also considered the validity of the opt-out period which was regrettably missed by Ms B. TPR has also issued guidance on this. It stipulates that the period will be one month from the date of notification of the enrolment into the Scheme. In Ms B’s case, this period began on 31 March 2016. As she only contacted Zurich in August 2016, she was unfortunately, outside of this timeframe. As a result, Zurich has confirmed that it is unable to refund Ms B’s contributions and directs her to one of two action points: she could either transfer her contributions to another scheme or wait until retirement age to draw her pension benefits.
19. In conclusion, I do not consider the re-enrolling Ms B back into the Scheme and refusing her a refund of contributions amounts to maladministration on the part of Zurich. As mentioned earlier, under current workplace pension Scheme procedures, Ms B has been offered reasonable options for the contributions

already deducted. Auto-enrolment and re-enrolment are obligations placed on all Employers; is a matter strictly governed by legislation, and not one that I am able to influence or exercise discretion over.

20. Therefore, I do not uphold Ms B's complaint.

Anthony Arter
Pensions Ombudsman

22 March 2017