

Ombudsman's Determination

Applicant	Mr L
Scheme	Nest (the Scheme)
Respondent	National Employment Savings Trust (Nest)

Outcome

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

Complaint summary

3. Mr L says Nest unreasonably delayed claiming tax relief on his pension contribution of £500. Although Nest has made good the financial loss, it delayed the process and failed to provide a satisfactory explanation for the delay. Nest then mismanaged his subsequent enquiries and complaint. He has not been compensated for the mistakes made.

Background information, including submissions from the parties

4. Mr L is self-employed. On 23 July 2015, he made a pension contribution of £500 to his pension with Nest. The following day, Nest notified him that he had been successfully enrolled into the Scheme.
5. Nest usually applies to HM Revenue & Customs (**HMRC**) for tax relief of 20% on contributions made from the 6th of the previous month to the 5th of the current month. Nest typically receives payment from HMRC by the 21st of the month following the request.
6. In October 2015, Mr L contacted Nest via his on-line mailbox for the Scheme (the **Mailbox**) to enquire about the tax relief due on his contributions. Following an exchange of correspondence, Nest acknowledged that it had not added tax relief to Mr L's contributions, and apologised for the oversight. Nest said that it would investigate the 'technical defect,' resolve the issue within seven working days and contact Mr L once the tax relief had been added.

7. In December 2015, Mr L complained that Nest had failed to reply within the timescale stipulated, and to provide updates. After acknowledging his complaint on 9 December 2015, Nest informed Mr L in late December 2015, that it was still looking into the issue. Nest said that it would respond by 6 January 2016, and if it was unable to resolve his complaint by then, it would update him.
8. On 4 January 2016, in accordance with its standard complaint procedure, Nest issued its response to Mr L's Mailbox. In the letter, Nest said that it had tried to contact him to discuss his case without success. Nest acknowledged that his account was active at the time Nest received the contributions. Consequently, it could have allocated the payment. Nest said that it was expecting to receive the tax relief by the end of the month and confirmed that it would be invested in the usual way.
9. Nest claimed the outstanding tax relief on Mr L's contributions from HMRC in January 2016. The tax relief, less Nest's contribution charge, was used to purchase the same number of units that would otherwise have been purchased in September 2015, the date when Nest accepted that the tax relief should have been invested. The additional units were actually applied to Mr L's account in late March 2016.
10. Mr L's annual pension statement, as at 31 March 2016, shows total contributions of £625, inclusive of tax relief of £125 claimed on his behalf.
11. In November 2016, Mr L complained that his case was being mishandled. Nest responded on 9 December 2016, however, the paper copy of the letter was posted to the wrong address.
12. Nest accepts that the service it provided to Mr L fell short of the high service standards it aims to provide to its customers, and that it could have performed better in several areas: it should have contacted Mr L to explain the reason for the delay in applying for tax relief, and kept him updated on the progress of his case. The delay that occurred would only arise where the member is self-employed. Nest is looking into a permanent 'fix' to resolve the system issue.
13. Nest has acknowledged that Mr L's address was incorrectly typed in its letter of 9 December 2016, and has also apologised for this.
14. Nest initially offered Mr L £50 for the delay and inconvenience he experienced. Mr L rejected the offer. At the time, he considered an amount in the region of £100 for errors and delays, and an acknowledgement by Nest of its maladministration, would resolve matters. As Mr L was unable to achieve this outcome, he brought his complaint to us.
15. As a gesture of goodwill, Nest has offered an additional £50 towards the expenses Mr L incurred in pursuing his complaint.
16. Mr L says he understands that each case we accept to investigate is considered on its own merits. On the other hand, he is aware that in similar cases, involving repeated delays, the Pensions Ombudsman awarded £500 [for significant distress

and inconvenience]. He spent over ten hours corresponding with Nest and incurred postage and other costs of approximately £20.

17. Mr L has explained that he is not placing a value on his time as such. However, he does feel that Nest should recognise the time that he had to spend unnecessarily, due to its mistakes. He had to chase Nest at every stage just to get it to add the tax relief and missing units to his pension account, and reply to his complaint. Nest failed to meet its own service standards and then wrote to him at the wrong address, adding to the frustration and distress he felt in his entire dealings with Nest since October 2015.
18. Mr L considers an amount in the region of £500 to £1,000 would be reasonable, and in line with awards made by the Pensions Ombudsman in similar cases.

Adjudicator's Opinion

19. Mr L's complaint was considered by one of our Adjudicators who concluded that no further action was required by Nest. The Adjudicator's findings are summarised briefly below:-
 - For an Ombudsman to make an award for non-financial injustice, such as distress and inconvenience, the impact of that injustice has to be significant to warrant the minimum award of £500.
 - In all likelihood an Ombudsman would not direct that any further action be taken as the matter does not justify the minimum an Ombudsman would award for non-financial injustice.
20. Mr L did not accept the Adjudicator's Opinion and the complaint was passed to me to consider. Mr L has provided further comments but these not change the outcome. I agree with the Adjudicator's Opinion and I will therefore only respond to the key points made by Mr L for completeness.

Ombudsman's decision

21. Mr L says Nest unreasonably delayed responding to his enquiries, mishandled his complaint, and caused him significant inconvenience on several occasions. He has reviewed past Determinations that raise similar issues. He noted that in one particular case, the award amounted to £1,000. He believes that an award of £500 would be reasonable in his case: the lengthy delay, in Nest applying for and crediting the tax relief was bad enough, but he finds it extraordinary that Nest failed to reply to his enquiries during the intervening period until chased for a response. Even his complaints were not recognised as such or responded to promptly, and the tone of the replies were dismissive.

22. Mr L points out that Nest accepted that he had been inconvenienced by its delays, but he was not offered any compensation for this, which seems illogical. The revised offer of £100 only covers the costs he has incurred in making his complaint, it provides no redress for the multiple administrative errors made by Nest. He wants Nest to acknowledge that the errors amount to maladministration. He would be open to an award of £50 to £100 for each mistake.
23. It is evident that Mr L has been inconvenienced by Nest. The time Nest took to resolve the issue was excessive. However, the outcome Mr L is seeking is disproportionate to the level of distress and inconvenience he would likely have suffered.
24. The tax relief in question amounts to around £100. Nest has confirmed that it has bought the same number of units that would have been purchased at the time, but for the delay. Nest's offer of £100 is also sufficient to cover Mr L's actual costs of £20, so he has not suffered any financial loss. I have no reason to suspect otherwise.
25. Aside from the delay in allocating the tax relief and units to Mr L's pension account, Nest accepts that the customer service Mr L received from Nest failed its own service standards. However, this does not materially change the outcome. I agree with the Adjudicator that the matter does not justify an award of £500, the minimum I would direct for significant non-financial injustice. Each case is considered on its own merits and, in this case, I do not see any reasonable grounds to make an award in addition to that already offered by Nest. The amounts concerned are not significant and Nest has made an adequate offer in recognition of its failings in this case.
26. In conclusion, I am satisfied that there is no outstanding injustice to be remedied. It is now open to Mr L to accept Nest's revised offer of £100.
27. Therefore, I do not uphold Mr L's complaint.

Anthony Arter

Pensions Ombudsman
27 February 2018