

Ombudsman's Determination

Applicant	Mr S
Scheme	Beaufort Consulting Master Trust (the Scheme)
Respondent	Bolzoni Ltd (the Employer)

Outcome

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

Complaint summary

3. Mr S says that he was entitled to pension contributions from the Employer between 2015 and 2017.

Background information, including submissions from the parties

4. On 1 March 2015, Mr S commenced employment with the Employer. The terms were agreed verbally and, as such, no written contract of employment exists.
5. In June 2016, Mr S recorded a meeting with the Employer and wrote his own transcript. Mr S has provided this office with a copy of the transcript. In response to Mr S' comments that he was not in a pension scheme the Employer said that it would 'sort that out for you'. Mr S' start date of employment was confirmed, however no other pension terms were discussed.
6. In February 2017, Mr S joined the Scheme. His complaint is that he is owed backdated employer contributions from March 2015. He argues that his colleagues were all members of the Scheme and that the Employer paid contributions on their behalves.

Summary of the Employer's comments

7. The Scheme was not established until February 2017. Before this there was no pension scheme linked to the Employer.
8. It did pay contributions into some employees' personal pension policies, but this was not a feature of Mr S' employment terms.

9. It was not aware that Mr S was recording the meeting upon which he relies. In any event, the meeting was about something unrelated to pension contributions so when Mr S asked his questions, the parties present at the meeting did not have his employment information to hand.

Adjudicator's Opinion

10. Mr S' complaint was considered by one of our Adjudicators who concluded that no further action was required by the Employer. The Adjudicator's findings are summarised below:-
- The transcript states that pension contributions were discussed but this was vague and there is no evidence that any specific pension terms were agreed.
 - There was no contractual agreement to a right to an employer contribution before 2017.
 - Even if Mr S' colleagues were receiving employer contributions, this does not mean he was entitled to the same terms.
11. Mr S did not accept the Adjudicator's findings and the complaint was passed to me to consider. Mr S provided his further comments which do not change the outcome. I agree with the Adjudicator's findings and I will therefore only respond to the key points made by Mr S for completeness.

Summary of Mr S' comments

12. The recording of the meeting should be sufficient evidence.
13. Some of Mr S' colleagues are willing to testify that they received pension contributions from the Employer.
14. Mr S claims that no employees had written contracts of employment.
15. All staff received a 5% employer contribution into a pension.

Ombudsman's decision

16. The evidence Mr S has submitted does not show that he had an entitlement to a pension contribution from the Employer as part of his employment terms.
17. The Scheme was not established until February 2017, so Mr S could not have become a member any earlier than this.
18. Before the Scheme was established, the Employer did make payments into the personal pension policies of some employees, however Mr S has not shown that this was a term of his employment. I can only consider Mr S' own terms of employment not the arrangements that may have been agreed with other employees.

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19. I note that Mr S recorded a meeting with the Employer without its knowledge. I have reviewed Mr S' transcript. The Employer shows some surprise that Mr S was not in receipt of employer contributions to a pension plan, and says that it will 'sort that out', however this does not constitute a contractual agreement.
20. Therefore, I do not uphold Mr S' complaint.

Anthony Arter

Pensions Ombudsman
8 August 2018