

Ombudsman's Determination

Applicant	Mr S
Scheme	The Pensions Trust Growth Plan (the Plan)
Respondents	Healthy Investment (HI) (formerly Independent Order of Rechabites, Salford Unity Friendly Society (the Society))

Outcome

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

Complaint summary

3. Mr S' complaint is that the refund of contributions of £4,218.86 he received in 2004 was lower than it ought to have been. He says incorrect contributions were made by his former employer, the Society.

Background information, including submissions from the parties

4. On 1 July 1990, Mr S went to work for the Society. Prior to 1995 it made contributions, at the rate of 7.5%, into employees' private pension plans.
5. On 22 May 1996, following a re-structure to the organisation in January 1995, Mr S was provided with a new contract of employment (**the Contract**). The contract stated Mr S was entitled to join a company pension plan the "particulars of which are available from the Employer".
6. On 5 August 1996, Mr S completed an application form to join the Plan, which was administered by The Pensions Trust (**TPT**). TPT received Mr S' application on 28 August 1996.
7. On 10 September 1996, TPT sent Mr S a letter stating he was enrolled as a member of the Plan.
8. On 1 October 1996, Mr S started contributing to the Plan. He left employment and stopped contributing to the Plan on 6 February 1998.

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9. On 11 March 1998, TPT wrote to Mr S stating he was entitled to either a pension of £492.86 per year, from Normal Pension Age, or a refund of contributions of £540.47 (net).
10. On 30 July 2004, Mr S received a one-off lump sum payment of £4,218.66 from TPT, in full settlement of his Fund entitlement.
11. On 5 May 2016, Mr S wrote to the Chief Executive of HI, Mr N, to complain that his pension entitlement from the Plan was small and not representative of the period he was employed by HI's predecessor. He also raised other grievances which are outside the jurisdiction of The Pensions Ombudsman.
12. In August 2017, after a long exchange of correspondence with TPT and HI, Mr S says he discovered HI's predecessor had paid employer contributions into the Plan at an incorrect rate.
13. On 28 December 2017, TPT wrote to Mr S summarising his Plan membership. It stated the member contribution rate was 2.5% and the employer rate was 7.5%. It also said the contributions paid by HI were checked after he ceased employment and were reasonable, based upon his reported salaries.
14. On 3 May 2018, after further exchanges of correspondence, Mr N provided HI's final response to Mr S's complaint. He maintained that HI had no financial liability for any of the complaints Mr S raised.
15. On 15 November 2018, Mr N provided HI's Formal Response to Mr S's complaint to The Pensions Ombudsman. He stated that as Mr S took a refund of contributions in 2004, he considered it 'difficult to believe' Mr S only discovered the alleged error in 2017. He also said limited information was available to refer to as the events of the complaint occurred so long ago. However, in light of the information supplied by TPT, he considered Mr S' claims to be incorrect as they were based on over-stated membership dates and salary details.

Adjudicator's Opinion

16. Mr S' complaint was considered by one of our Adjudicators who concluded that no further action was required by HI. The Adjudicator's findings are summarised below:-
 - After the Adjudicator's involvement, TPT located some further Plan documents that proved Mr S joined the Plan on 1 October 1996 and not January 1995, as he had suggested.
 - TPT also provided salary information for the entirety of Mr S' Plan membership that was substantially lower than the amounts Mr S claimed. The Adjudicator said it was understandable that Mr S would not be able to accurately recall salary details from 20 years ago without paperwork to refer to.

- The Pensions Ombudsman cannot provide actuarial services and cannot independently re-calculate the value of contributions paid into the Plan. However, the contributions Mr S and his former employer made to the Plan are in line with the information provided by TPT. Consequently, after investment growth, the amount refunded to him in 2004 appears reasonable.

17. Mr S did not accept the Adjudicator's Opinion 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 Opinion and I will therefore only respond to the key points made by Mr S for completeness.

Ombudsman's decision

18. Mr S maintains that HI's predecessor should have made pension contributions from January 1995. He argues that there was an "inexcusable gap" between it ceasing to contribute to his private pension and setting up the Plan. The Contract does not state that Mr S had an automatic entitlement to be enrolled in a company pension plan from 1 January 1995. It states he is "entitled to join" the Plan. An employee would have to have submitted an application to HI's predecessor in order to have become a member of the Plan. Mr S completed the application form in August 1996. Consequently, he must have been aware of his entitlement at that point. I find Mr S ought reasonably to have queried his eligibility to join the Plan in 1996, or certainly much sooner than he did.
19. Mr S has revised his claim, based upon the salary information provided by TPT. However, his calculations are still based upon a contractual entitlement to join the Plan from 1 January 1995. For the reasons the Adjudicator identified, I do not find this to be correct. Mr S joined the Plan on 1 October 1996 and I agree with the Adjudicator's assessment that the refund of contributions paid to him was reasonable.
20. Therefore, I do not uphold Mr S' complaint.

Karen Johnston

Deputy Pensions Ombudsman
23 April 2019