

Ombudsman's Determination

Applicant	Miss X
Scheme	NOW: Pensions Trust (NOW Pensions)
Respondents	Comfy Quilts Ltd (Comfy Quilts) E-Bedding Ltd (E-Bedding)

Outcome

1. I do not uphold Miss X's complaint and no further action is required by Comfy Quilts and E-Bedding.
2. Miss X's concern that a potential fraud may have been committed by the Respondents is not something which I can investigate. If Miss X suspects that there has been possible dishonesty or misuse of pension contributions by Comfy Quilts and E-Bedding, then this is a matter for the Pensions Regulator and/or the police to investigate.

Complaint summary

3. Miss X has complained that Comfy Quilts and E-Bedding were late in:
 - complying with their legal duties when automatically enrolling her into their pension schemes; and
 - deducting and forwarding her monthly contributions within prescribed timescales.
4. Miss X said that she has suffered a financial loss because of these errors and is also concerned that Comfy Quilts and E-Bedding may have fraudulently profited from the interest earned on her contributions while they were improperly held in the Respondents' bank accounts.

Background information, including submissions from the parties

5. Miss X was employed by Comfy Quilts on 14 November 2016.
6. Due to an administrative error Comfy Quilts did not automatically enrol Miss X into its pension scheme, administered by NOW Pensions, and so did not pay monthly

contributions into the scheme for her. No employee contributions were deducted from her salary.

7. It has been acknowledged that Comfy Quilts had experienced problems paying contributions into its pension scheme in a timely manner. This had been an issue since April 2016 due to an error that occurred which duplicated the records of some Comfy Quilts employees.

8. On 23 December 2016, NOW Pensions emailed Comfy Quilts and said that:

“I understand that an issue occurred due to transferring your weekly paid employees to your monthly payroll. Subsequently this has created duplicate records and in April 2016 a case was raised to request this is rectified. This corrective work can take some time to rectify depending on the volume and requires one of our Technical Support Team who specialise in cleansing the data from the Portal. I can see that our Client Support Team has repeatedly contacted our Technical Support Team requesting an update regarding this work.

Our records also indicate that work was due to commence on 15/11/2016 and you were sent an email detailing a timescale for this work to be completed however; due to high volumes of corrective work and the complexity involved, our Technical Support Team have not yet commenced work on your Portal.

...I appreciate you have been waiting a considerable amount of time and are unhappy that work has not yet started. I have contacted the Technical Support Manager to...request for work to be commenced as soon as possible. I understand you have been advised not to import data since April 2016 and we can consider reviewing member detriment, specifically any investment loss as a result of contributions being collected late.”

9. On 18 January 2017, Comfy Quilts emailed NOW Pensions seeking an update on the progress made on the data cleansing exercise and to inform it that there was “another month’s contributions ready for submission”.

10. NOW Pensions replied in an email dated 25 January 2017 which said:

“I appreciate you are dissatisfied with the service received as you have been waiting a considerable amount of time for the issues to be resolved and you were previously advised corrective work was underway in November 2016. As advised in my email on 23 December 2016, our Technical Support Team had not commenced the corrective work during 2016 and I sincerely apologise for the incorrect information you had been provided.

...my colleague in our Technical Support Team began reviewing this in January 2017. Before commencing corrective action, a full review of the Portal and all data was conducted. Due to length of time elapsed since this was initially raised, my colleague requested confirmation of the correct employee

numbers. Having confirmation of these details directly from you also helps avoid any misunderstanding of the changes made.

My colleague will now commence the corrective work...Once again, I apologise for the customer service you have received previously. I will be in regular contact with our Technical Support Team to ensure no further delays are experienced.”

11. NOW Pensions sent Comfy Quilts an update by email on 14 February 2017, which said:

“My colleague has been working through deleting duplicate records and amending the dates we hold so that records are accurate. This involves reviewing a large amount of data and there is a considerable amount of work yet to complete...my colleague may again contact you directly for additional information as he progresses through the stages of corrective actions.

...we hope to provide further updates soon.”

12. Comfy Quilts replied on the same day, that it did not “seem to make sense” that it was taking so long to complete this task. It also said:

“We are not satisfied that our complaint is being dealt with efficiently.

We currently have approximately 390 employees for whom we are deducting pension contributions from salaries and for the last 12 months we have been unable to submit them to NOW Pensions until this is resolved.

When eventually you remedy this situation, we will have to submit the backlog of contributions totalling over £150,000.

I am sure that you appreciate that we have been extremely patient.

We have had several false starts and been informed that our case is now a top priority but still it remains unresolved.”

13. In an email dated 15 February 2017 to Comfy Quilts, NOW Pensions said:

“One of our Technical Specialists is working solely on this case until completion. This work involves retrieving each file from your Portal, reviewing each record, amending where necessary and reimporting data. We also need to ensure contributions process through our system as expected and no duplicate pensions have been created...Further underlying issues may be discovered during the work, which is why we cannot provide a deadline date for this work to be completed yet. Once we approach the final stages of our work, we will have a clearer idea of when this should be completed.”

14. NOW Pensions notified Comfy Quilts on 24 February 2017 that it was “making great progress in rectifying the data to resolve the outstanding issues”. Comfy Quilts,

however, says that it was not until February 2018 that NOW Pensions completed the data cleansing exercise to “enable the upload of contributions to be paid over”.

15. On 1 April 2017, Miss X’s employment was transferred from Comfy Quilts to E-Bedding in accordance with the Transfer of Undertakings (Protection of Employment) Regulations 2006 (**TUPE Regulations**).
16. E-Bedding was the technology arm of the Comfy Quilts group of companies and has recently been renamed as C G Support Services Ltd.
17. Comfy Quilts and E-Bedding are owned by the same family and are now under common control.
18. In 2017, E-Bedding had been a separately managed business but shared Human Resources (**HR**) services with Comfy Quilts. At that time, the E-Bedding management team consisted of a Managing Director and a Financial Controller whose responsibilities included managing the E-Bedding pension scheme.
19. E-Bedding failed to automatically enrol Miss X into its pension scheme, also administered by NOW Pensions, on 1 April 2017.
20. In January 2018, the Comfy Quilts management team took over the common management of E-Bedding and Comfy Quilts. Both companies now have common management for both finance and HR.
21. In response to the concerns raised by Miss X in May 2017, regarding her pension provision, Comfy Quilts acknowledged that it had failed to deduct the relevant employee pensions contributions or pay the relevant employer pension contributions into the Comfy Quilts pension scheme for the period 14 November 2016 to 31 March 2017.
22. Comfy Quilts said that:
 - Miss X informed it that she did not want to backdate her employee pension contributions for this period; and
 - at the time she did not request payment of her missing employer contributions.
23. Miss X was automatically enrolled into the E-Bedding pension scheme on 1 May 2017 and employee deductions were made from her salary. E-Bedding did not initially pay Miss X’s monthly pension contributions into its pension scheme when they were due from May 2017 onwards and held them in its bank account.
24. According to Comfy Quilts:
 - the mistake was caused by the failure of the incumbent Financial Controller at E-Bedding to fully establish the E-Bedding pension scheme in April 2017;

- when this error was discovered at the end of 2017, the issue with the E-Bedding pension scheme was rectified as soon as possible;
 - all of Miss X's employee and employer pension contributions held in the E-Bedding bank account were paid into this scheme on 8 January 2018;
 - E-Bedding did not earn any interest on these contributions while they were held in its bank account; and
 - monthly contributions were subsequently paid into this scheme on time for Miss X.
25. Comfy Quilts has submitted a copy of an email sent by its bank manager, HSBC, as evidence that no interest was earned on the contributions. HSBC states that the current account into which the deducted pension contributions were paid does not earn interest. Comfy Quilts also said that it does not have a deposit account.
26. Shortly before leaving E-Bedding on 31 May 2018, Miss X asked Comfy Quilts to pay the employer pension contributions due for the period she had worked for it, from 14 November 2016 to 31 March 2017, as stipulated in her contract of employment.
27. In June 2018, Comfy Quilts paid £175, comprising six months' employer contributions plus £35.02 to cover any investment loss, into the E-Bedding pension scheme.
28. Miss X subsequently complained to NOW Pensions about the late payment of her pension contributions into the E-Bedding pension scheme.
29. In its Stage One Internal Dispute Resolution Procedure (**IDRP**) letter dated 2 July 2018, NOW Pensions said:

"I confirm we have received and invested contributions submitted by your employer on your behalf since May 2017. We are performing a unit adjustment calculation to assess whether any of our member's funds have been impacted due to delayed investment. NOW Pensions will make any adjustments to ensure your fund is put back in the same position had the contributions been invested on time. The outcome of this assessment will be communicated within the 2017/18 statements which will be issued by 30 September 2018. We have only collected contributions your employer has asked us to collect, and I have not located any information on our systems...indicating you wished to opt out...in view of this a refund is not appropriate.

We do not set up accounts for client/members without there being in place an agreement called a Participation Agreement. The agreement with your employer commenced on 21 April 2017 and from the records available to me it does appear your employer did not begin to submit payroll information to us until 8 January 2018. It was only then we began to collect the advised pension contributions. We have no control over when employers submit payroll information to enable us to collect member contributions."

Miss X's position

30. Miss X said that:

“Comfy Quilts failed to enter me into a pension scheme from my start date with the company (14 November 2016). Clause 5 of my contract clearly stated that I would be automatically enrolled into the pension scheme and this would be effective from my start date. Comfy Quilts enrolled me into a pension scheme on 8 January 2018...contributions had been taken from my salary since May 2017...Between May 2017 and February 2018, the funds taken from my salary were in a Comfy Quilts bank account earning interest for Comfy Quilts. Considering this affected all employees, they would have gained financially. Pension legislation states that funds taken for a pension scheme should be paid into the scheme within 28 days. This is a clear breach of legislation. The Pensions Regulator has advised that any profit made from this money should be paid back to the member of staff. This hasn't happened. Comfy Quilts blame NOW Pensions for this issue but when I raised a complaint with NOW Pensions, they advised it was Comfy Quilts who were at fault.”

...I raised concerns with Ms R, the Comfy Quilts Payroll Administrator, via email on 17 December 2017. I find it concerning that two members of the Finance Team at Comfy Quilts were aware of these issues raised regarding the pension and that they didn't advise HR on an issue that affected all employees. I personally didn't raise my concerns regarding my pension to HR as this isn't their remit... Mr H, Comfy Quilts Finance Director, was aware of E-Bedding employees concerns over the missing pension contributions which was witnessed by the entire office. Many of my colleagues expressed their concerns in this conversation. He refused to put anything regarding our pension in writing....

...it isn't and wasn't my responsibility to ensure the Finance Team communicated this issue throughout the company or to HR. When I raised this in an email to Ms G (of HR) on 20 May 2018 this was in relation to Comfy Quilts' breach of contract. As I advised Ms G at the time, I didn't email her as she didn't deal with pensions and the Finance Team who do were already aware of the issue...

Irrespective of the above, it is still illegal for an employer to take money from an employee for a pension contribution and then not pay it into a valid pension scheme and rather their own bank account and profiting from the interest....

I have potentially lost out on interest due to the money being in their bank account.

I have spoken to the Pensions Regulator who informed me that Comfy Quilts had acted illegally and questioned if I was happy to appear in Court should it go this far...I confirmed to the Regulator that I would be happy to be a witness in court as I take fraud very seriously.

...if Comfy Quilts were experiencing issues with NOW Pensions which meant that Comfy Quilts were illegally holding onto employees' pension contributions as a result of NOW Pensions not acting properly, then where is the evidence of this? Why did Comfy Quilts let this go on for so long?

Where is the communication that Comfy Quilts reported this to the Regulator? I have evidence to support that NOW Pensions aren't at fault but if Comfy Quilts didn't purposely act dishonestly then where is the evidence to support this? I would have expected Comfy Quilts to have provided...the communication to all employees and to the Regulator showing this. Surely Comfy Quilts have a legal duty to have reported NOW Pensions to the Pensions Regulator as NOW Pensions would have been impacting Comfy Quilts and causing them to be holding on to money illegally.

If NOW Pensions were at fault, why did Comfy Quilts continue to take employee pension contributions and put them into their own bank account earning them interest?

What did Comfy Quilts do with the interest earned from paying employees pensions into their own bank account?"

31. She also said that:

"The company have potentially profited at their employee's loss. As far as I can see there hasn't been any evidence provided by Comfy Quilts that they haven't profited. Comfy Quilts could have also profited in different ways as it would look as though they had a higher amount of money in their accounts. Whilst the bank account that the pension contributions was held did not earn interest it would have been classed as an asset for the company and this would have increased the value of the company. Has this been considered? It appears you have only looked into whether Comfy have profited by gaining interest. Regardless of the reasons, the money should not have been in a holding account for all that time."

The position of Comfy Quilts

32. The owners decided to replace the Managing Director and Financial Controller at E-Bedding in 2017 and appointed their own interim management team to take direct control of the company.
33. The Managing Director and Financial Controller left E-Bedding on 30 September and 17 November 2017 respectively.
34. In late 2017, as part of a review into the financial operations of the business, the new interim management team discovered that the E-Bedding pension scheme had not been administered properly and rectified this mistake in January 2018.
35. It transpired that the Financial Controller had failed to carry out instructions to set up and administer the E-Bedding pension scheme properly following the TUPE transfer.

The reasons for this failure are not known but the fact that the Financial Controller left employment shortly after the interim management team had discovered her shortcomings was self-explanatory.

36. Mr H is now the Finance Director for both Comfy Quilts and E-Bedding.
37. Miss X has not suffered any financial loss.
38. Comfy Quilts and E-Bedding have not benefitted financially.
39. Comfy Quilts has always acted in good faith and any amounts owed to Miss X were addressed at the time of her departure in May 2018.
40. Interest of £8.40 for late payment of Miss X's contributions was determined by comparing interest rates at the time, which were less than 2% per annum and "the growth in the FTSE" over the period of missing contributions, which was 6% per annum.
41. Comfy Quilts used two methods for calculating the interest figures:
 - Method One assumed that contributions covering the period 14 November 2016 to 31 March 2017 for Miss X, totalling £139.98, had been invested as a lump sum when she first joined Comfy Quilts in November 2016. It was also assumed that this amount had earned interest for a full year at the higher rate of 6% per annum. This method meant Miss X was entitled to an interest payment of £8.40.
 - Method Two assumed that monthly contributions were paid when due, and the corresponding amount of interest payable was lower.
42. It increased the interest payment to £35.02 to avoid any possibility of Miss X suffering a financial loss. The overall sum paid was £175.
43. This payment was agreed with Miss X and paid into the E-Bedding pension scheme in June 2018 because no member account had been set up for her in the Comfy Quilts pension scheme.
44. Miss X did not question at any time prior to her departure the size of the compensation payment or how it was calculated.
45. The interest calculation was consequently advantageous to Miss X. It is not prepared to make a further payment to Miss X in recognition of any distress and inconvenience which she has experienced dealing with this matter.
46. Miss X was enrolled into the E-Bedding pension scheme from a payroll perspective on 1 April 2017.
47. It has not made a complaint to the Pensions Regulator about the administration of the E-Bedding pension scheme by NOW Pensions as the problem was caused by the Financial Controller at E-Bedding. Once the scheme was correctly established in January 2018, monthly contribution payments were paid into it in good time.

48. It does not know whether the Financial Controller completed a Declaration of Compliance within five months of the date on which the automatic enrolment obligations began as required under the Pensions Act 2008. To the best of its knowledge, the Pensions Regulator was not advised of late compliance because the current Comfy Quilts management team was unaware of any non-compliance when it took control in January 2018.
49. Affected employees received notification of their enrolment into the E-Bedding pension scheme from NOW Pensions. Any issues about this were dealt with in Question & Answer sessions as part of the project to bring the management of E-Bedding under the control of the Comfy Quilts management team.
50. E-Bedding did not intend to hold onto pension contributions in its bank account and did not benefit financially in any way by doing so.
51. The contributions were not paid into the E-Bedding pension scheme in a timely manner because of failures attributable to the Financial Controller. If the scheme had been set up properly, the contributions would have been paid into it within prescribed timescales.
52. At the time of Miss X leaving employment, she e-mailed the owners directly and stated that, "I want to make clear I have not intimated that you purposely paid the pension contributions into your bank account and I don't appreciate this being inferred by her (Ms G)".
53. Comfy Quilts and E-Bedding acted in good faith in respect of Miss X's pension. Whilst they accept that the situation could have been administered better there was no intention on the part of either company to cause any harm or loss to Miss X. There was also no intent to gain any sort of financial benefit from the situation.

Adjudicator's Opinion

54. Miss X's complaint was considered by one of our Adjudicators who concluded that no further action was required by Comfy Quilts and E-Bedding. The Adjudicator's findings are summarised below:-
 - Automatic enrolment was introduced in 2012 and requires employers to automatically enrol workers into a pension scheme. The Pensions Act 2008 and subsequent regulations set out the detailed requirements. Automatic enrolment was phased in between 1 October 2012 and 1 April 2017 for employers in existence on 1 April 2012.
 - For individuals who are enrolled, contributions must be deducted in accordance with the Pensions Act 2008 section 49. All contributions deducted by an employer during the first three months of membership must reach the scheme by 22nd of the fourth month, where paid electronically (or by the 19th if paid by another means). This

contribution payment deadline for new joiners is intended to allow employers to hold money until such time as it is known whether the jobholder has opted out.

- The employer must provide the scheme administrator with specific “jobholder information” no later than six weeks after the automatic enrolment date. Specified “enrolment information” must be provided by the employer to the jobholder, also no later than six weeks after the automatic enrolment date.
- Comfy Quilts has conceded that it did not automatically enrol Miss X into the Comfy Quilts pension scheme in November 2016 because of an error in its payroll system. It had consequently failed to deduct or pay pension contributions due for Miss X into the Comfy Quilts pension scheme for the period 14 November 2016 to 31 March 2017. In the Adjudicator’s view, these mistakes constitute maladministration on the part of Comfy Quilts.
- The Adjudicator noted that Comfy Quilts had belatedly paid the missing employer contributions into the E-Bedding pension scheme in June 2018 with sufficient interest to ensure that Miss X has not suffered financially. Comfy Quilts had also given Miss X the opportunity to pay her missing employee contributions which she chose not to do. The Adjudicator was therefore satisfied that Comfy Quilts had rectified its mistakes and put Miss X essentially back in the position she would have been in had the maladministration not occurred.
- Miss X is concerned that the problems which Comfy Quilts had experienced paying contributions into its pension scheme in a timely manner since April 2016 might have disadvantaged her. But Comfy Quilts had not enrolled Miss X into the Comfy Quilts pension scheme in November 2016, so the issue was irrelevant to her complaint. Furthermore, the Adjudicator agreed with Comfy Quilts that these problems were chiefly caused by NOW Pensions requesting that Comfy Quilts should not pay across pension contributions each month while the data cleansing exercise to remove the duplicate records was ongoing.
- The first date from which E-Bedding must automatically enrol its eligible employees into its pension scheme was 1 April 2017 and its automatic enrolment obligations applied from this date. The requirement to automatically enrol an eligible jobholder¹ normally applies from the first day the worker becomes eligible unless the employer is operating postponement². Scheme membership must begin on this automatic enrolment date although the employer has six weeks to complete the necessary automatic enrolment process.

¹ For the purposes of the Pensions Act 2008, an eligible jobholder means a jobholder aged between 22 and State Pension Age who is earning more than qualifying earnings and normally works in Great Britain. As such, he or she is subject to the automatic enrolment regime.

² An employer can postpone the automatic enrolment date by up to three months from the first date from which it must have automatically enrolled its employees to join its pension scheme, the date on which a worker is employed or when a worker first meets the criteria to become an eligible jobholder.

- The evidence was clear that E-Bedding had failed to comply with its automatic enrolment obligations to Miss X in a timely manner and this constituted maladministration on its part. It did not automatically enrol Miss X into the E-Bedding pension scheme on 1 April 2017 and after deducting her monthly pension contributions from May 2017 onwards, held them in its bank account rather than pay them into its pension scheme when they were due.
- Following the change to the management team at E-Bedding in late 2017, the issues with the E-Bedding pension scheme were discovered, and all the contributions held in the E-Bedding bank account for Miss X were subsequently paid into the E-Bedding pension scheme in January 2018.
- According to its Stage One IDRPs letter dated 2 July 2018, NOW Pensions received all Miss X's pension contributions payable since May 2017, and had invested them accordingly. NOW Pensions also said that it would perform a unit adjustment calculation to determine whether she had been impacted by the delayed investment and make any adjustments to ensure that Miss X's fund was valued as if the contributions had been invested on time. It also informed Miss X that details of its calculation would be shown on the 2017/18 statement to be sent to her at the end of September 2018.
- The Adjudicator saw no evidence that NOW Pensions did not do this and was therefore prepared to accept that Miss X had been put back in the position she would have been in if E-Bedding had paid monthly contributions into its pension scheme on time.
- Employers are required to declare compliance with the legal duties under the Pensions Act 2008 and subsequent regulations, within five months of the date the automatic enrolment obligations first apply by completing a declaration online. By doing so, an employer informs the Pensions Regulator that it has met its legal duties. Employers must also keep records which the Pensions Regulator can use if necessary, to check that employers have undertaken enrolment and opt outs correctly.
- If an employer is late complying with its automatic enrolment obligations, it should tell the Pensions Regulator about this straight away. In such circumstances, the Pensions Regulator's overall approach is to educate and enable the employer to comply with the legislation. If an employer has not understood its duties or been unable to comply, the Pensions Regulator will provide support to enable it to do so. However, if the employer has ignored its duties, the Pensions Regulator may use its powers to ensure compliance.
- If an employer did not enter a member of staff into a pension scheme when it should have done, the Pensions Regulator will require it to do so and backdate contributions to the day that the member first met the age and earnings requirement criteria so that they do not lose out. This was essentially what Comfy Quilts and E-

Bedding have already belatedly done for Miss X in order to comply with the automatic enrolment requirements.

- While it was the Adjudicator's view that Miss X did not suffer any actual financial loss because of the maladministration identified above, she had experienced some distress and inconvenience dealing with this matter. Comfy Quilts were not, however, willing to offer her an award for this on a voluntary basis in addition to its interest payment. The Ombudsman's awards for non-financial injustice start at £500 for significant distress and inconvenience. In the Adjudicator's opinion, the degree of non-financial injustice which Miss X has suffered was not sufficient to warrant the minimum payment.
- The monitoring of employers' compliance with the automatic enrolment and contribution requirements is a function of the Pensions Regulator and not the Pensions Ombudsman.
- Miss X is concerned that Comfy Quilts and E-Bedding may have fraudulently profited from the interest earned on her contributions whilst they were improperly held in their bank accounts. Comfy Quilts strongly refutes her concerns and has submitted evidence from HSBC, its bank account manager, stating that its current account is non-interest bearing.
- Miss X's concerns of fraud are not something which the Pensions Ombudsman can investigate. If she suspects that there has been possible dishonesty or misuse of pension contributions by Comfy Quilts and E-Bedding, then this is a matter also for the Pensions Regulator and/or the police to investigate.
- While there have been errors in enrolling Miss X in the pension schemes, it was the Adjudicator's view that no further award should be made to her as the situation had now been properly remedied.

55. Miss X did not accept the Adjudicator's Opinion and the complaint was passed to me to consider. Miss X provided her further comments which do not change the outcome. I agree with the Adjudicator's Opinion and note the additional points raised by Miss X.

Ombudsman's decision

56. Miss X has complained that Comfy Quilts and E Bedding were late in: (a) complying with their legal duties when automatically enrolling her into their pension schemes; and (b) deducting and forwarding her monthly pension contributions within prescribed timescales. This element of her complaint falls within my jurisdiction and my Office is therefore the appropriate organisation to deal with it.
57. Comfy Quilts has accepted that it did not automatically enrol Miss X into its pension scheme in November 2016 due to an error in its payroll system. It had consequently failed to deduct or pay pension contributions due for Miss X into the Comfy Quilts

pension scheme from 14 November 2016 to 31 March 2017 and these mistakes clearly constitute maladministration on the part of Comfy Quilts.

58. I note, however, that Comfy Quilts had belatedly paid the missing employer contributions into the E-Bedding pension scheme in June 2018 for Miss X with sufficient interest to ensure that she has not suffered financially. When I make a direction involving the late payment of benefits, I usually award simple interest calculated using the base rates being quoted by the Bank of England. The interest which she has received from Comfy Quilts of £35.02 therefore exceeds what I would have directed it to have paid her if this had been necessary.
59. Comfy Quilts had also given Miss X the opportunity to pay her missing employee contributions which she chose not to do. In my view, Comfy Quilts has consequently rectified its mistakes and put Miss X essentially back in the position she would have been in had the maladministration not occurred.
60. It is clear to me that E-Bedding had also failed to comply with its automatic enrolment obligations to Miss X in a timely manner and this constituted maladministration on its part. It did not automatically enrol Miss X into the E-Bedding pension scheme on 1 April 2017 and after deducting her monthly pension contributions from May 2017 onwards, held them in its bank account rather than pay them into its pension scheme when they were due.
61. NOW Pensions has confirmed receipt of all the contributions which were held in the E-Bedding bank account for Miss X and that they have now been invested in the E-Bedding pension scheme. Furthermore, it also said that it would perform a unit adjustment calculation to determine whether Miss X had been affected by the delayed investment. Any adjustments would be made to ensure that her fund was valued as though the contributions had been invested on time; this would be shown on the 2017/18 statement.
62. I have no reason to doubt that NOW Pensions did this and am therefore satisfied that Miss X has also been put back in the position she would have been in if E-Bedding had paid monthly contributions into its pension scheme on time.
63. I am satisfied that Miss X has not suffered a financial loss as a result of the mistakes made which were subsequently rectified and recompense paid. This is no less than I would have directed in the circumstances.
64. Her concerns that Comfy Quilts and E-Bedding may have fraudulently profited from the interest earned on her contributions while they were improperly held in their bank accounts do not fall within my jurisdiction and have not been considered by me.
65. It remains open to Miss X to ask the Pensions Regulator and/or the police to investigate these concerns after my investigation has concluded.

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66. I do not uphold Miss X's complaint.

Anthony Arter

Pensions Ombudsman

15 October 2020