

Ombudsman's Determination

Applicant	Mr R
Scheme	People`s Pension (the Scheme)
Respondents	VSL - Vanguard Services Ltd (the Employer)

Outcome

1. Mr R's complaint is upheld and, to put matters right, the Employer shall pay £1,284,15 into the Scheme. The Employer shall ensure that Mr R is not financially disadvantaged by its maladministration. So, it shall arrange for any investment loss to be calculated and also paid into the Scheme.
2. In addition, the Employer shall pay Mr R £1,000 for the serious distress and inconvenience it has caused him.

Complaint summary

3. Mr R has complained that the Employer, despite deducting contributions from his pay, has failed to pay them into the Scheme.
4. The available evidence shows that the missing contributions amounted to £1,284.15.

Background information, including submissions from the parties

5. The sequence of events is not in dispute, so I have only set out the salient points.
6. In May 2017, Mr R began his employment with "8Point8 Vanguard Ltd" and continued with Vanguard Solutions Limited from 1 May 2020 until 30 April 2022.
7. Mr R continued his employment following the Transfer of Undertakings (Protection of Employment) (**TUPE**) from Vanguard Solutions Ltd to Vanguard Services Ltd on 1 May 2022.
8. Between November 2021 and April 2022, the Employer failed to pay pension contributions into the Scheme.
9. On 4 August 2023, Mr R brought his complaint to The Pensions Ombudsman (**TPO**).

10. Mr R informed TPO the Employer paid £256.83 into the Scheme on 24 March 2022. This amounted to £146.76 in employee contributions and £110.07 in employer contributions. Mr R said the Scheme administrator confirmed this payment was for November 2021.
11. Mr R provided copies of the payslips that he held for the period from December 2021 to April 2022, which detailed the pension contributions deducted from his pay and the corresponding employer contributions. These deductions amounted to £1,284.15. A breakdown of the deductions has been included in the Appendix.
12. On 4 July 2024, TPO asked the Employer for its response to Mr R's complaint. This request was repeated on 19 July 2024. The Employer responded on the same day and said it would be in a position to provide a response on 22 July 2024.
13. The Employer failed to respond by the deadline.

Adjudicator's Opinion

14. Mr R's complaint was considered by one of our Adjudicators who concluded that further action was required by the Employer as it had failed to remit the contributions that were due to the Scheme. The Adjudicator's findings are summarised below:-
 - The Adjudicator stated that TPO's normal approach, in cases such as these, was to seek agreement from all parties on the facts of the complaint, including the dates and amounts of contributions involved. She said that, as the Employer had not responded to any of TPO's communications, she had to base her Opinion solely on the information provided by Mr R.
 - The Adjudicator said that she had no reason to doubt the information provided by Mr R. So, in the Adjudicator's Opinion, on the balance of probabilities, contributions had been deducted from Mr R's salary, but had not been paid into the Scheme. In addition, the Employer had not paid any of the employer contributions that were due over the same period. As a result of its maladministration, Mr R was not in the financial position he ought to be in.
 - In the Adjudicator's view, Mr R had suffered serious distress and inconvenience due to the Employer's maladministration. The Adjudicator was of the opinion that an award of £1,000 for non-financial injustice was appropriate in the circumstances.
15. On 22 August 2024, the Employer responded to the Adjudicator's Opinion. The Employer did not agree with the award of £1,000 for non-financial injustice so the complaint was passed to me to consider. I agree with the Adjudicator's Opinion.

Ombudsman's decision

16. Mr R has complained that the Employer has not paid all the contributions due to his Scheme account.
17. I find that employee contributions were deducted but held back by the Employer and not paid into the Scheme. The Employer failed to rectify this and did not engage with TPO or Mr R.

18. The Employer's failure to pay employee and employer contributions into the Scheme amounts to unjust enrichment and has caused Mr R to suffer a financial loss. The Employer shall take remedial action to put this right.
19. Mr R is entitled to a distress and inconvenience award in respect of the serious ongoing non-financial injustice which he has suffered. This was exacerbated by its failure to respond during TPO's investigation into Mr R's complaint.

Directions

20. To put matters right, the Employer shall, within 28 days of the date of this Determination:
 - (i) pay Mr R £1,000 for the serious distress and inconvenience he has experienced;
 - (ii) pay £1,284.15 into Mr R's Scheme account. This figure represents the amount that, according to the figures provided by Mr R, have been deducted from his pay, but not paid into the Scheme account. It also includes the employer contributions for the relevant period which should also have been paid but have not been paid to date;
 - (iii) establish with the Scheme administrator whether the late payment of contributions has meant that fewer units were purchased in Mr R's Scheme account than he would have otherwise secured, had the contributions been paid on time; and
 - (iv) pay any reasonable administration fee should the Scheme administrator charge a fee for carrying out the above calculation.
21. Within 14 days of receiving confirmation from the Scheme administrator of any shortfall in Mr R's units, pay the cost of purchasing any additional units required to make up the shortfall.

Anthony Arter CBE

Deputy Pensions Ombudsman

1 October 2024

Appendix

Date	Employee contributions	Employer contributions
31 December 2021	£146.76	£110.07
31 January 2022	£146.76	£110.07
28 February 2022	£146.76	£110.07
31 March 2022	£146.76	£110.07
30 April 2022	£146.76	£110.07
Total amount: £1,284.15	£733.80	£550.35