

## Ombudsman's Determination

Applicant	Ms T
Scheme	Scottish Widows ( <b>the Scheme</b> )
Respondent	Cambridge Radio Limited ( <b>the Employer</b> )

## Outcome

1. Ms T's complaint is upheld and, to put matters right, the Employer shall pay the missing contributions in respect of her pension and make good any shortfall in units. In addition, the Employer shall pay Ms T £1,000 for the serious distress and inconvenience it has caused her.

## Complaint summary

2. Ms T has complained that the Employer, despite deducting contributions from her pay, has failed to pay them into the Scheme.
3. Ms T has said that the missing contributions amounted to £360.

## Background information, including submissions from the parties

4. In 2016, Ms T began her employment with UKRD Group. The Employer bought the radio station which employed her in February 2017. So, from February 2017, Ms T was employed by the Employer.
5. On 8 December 2020, Ms T brought her complaint to The Pension Ombudsman (**TPO**).
6. Ms T provided copies of the payslips that she held for the period from February 2017 to July 2018, which detailed the pension contributions deducted from her pay and the corresponding employer contributions. Ms T also provided a letter from the Scheme administrator showing the missed contributions which were for the period January to December 2017. A breakdown of the deductions has been included in the Appendix.
7. On 2 August 2022, the Employer told TPO that it agreed that not all contributions have been paid. It said it would pay them.

8. On 11 August 2022, Ms T wrote to the Employer and provided her Scheme policy number. She also provided details of how to make payment.
9. On the same day, TPO emailed the Employer and asked it to inform TPO when the payment was made.
10. On 22 August 2022, TPO asked the Employer for an update as to whether it had paid the contributions.
11. Later that day, the Employer responded and said that it would pay in full by the end of the month.
12. On 7 September 2022, the Employer emailed TPO and asked how much was owed.
13. On 13 September 2022, TPO emailed the Employer and explained what was owed. It asked the Employer to provide confirmation of payment.
14. TPO emailed the Employer again on 26 September and 4 October 2022, but it received no response to its request for an update.

### **Caseworker's Opinion**

15. Ms T's complaint was considered by one of our Caseworkers 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 Caseworker's findings are summarised below:-
  - The Caseworker 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. Although the Employer accepted that pension contributions remained outstanding, it did not provide a detailed schedule of what was owed. So, the Caseworker had to base his Opinion solely on the information provided by Ms T.
  - The Caseworker said that he had no reason to doubt the information provided by Ms T. So, in the Caseworker's Opinion, on the balance of probabilities, contributions had been deducted from Ms T'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, Ms T was not in the financial position she ought to be in.
  - In the Caseworker's view, Ms T had suffered serious distress and inconvenience due to the Employer's maladministration. The Caseworker was of the opinion that an award of £1,000 for non-financial injustice was appropriate in the circumstances.
16. The Employer did not respond to the Caseworker's Opinion and the complaint was passed to me to consider. I agree with the Caseworker's Opinion.

## **Ombudsman's decision**

17. Ms T has complained that the Employer has not paid all the contributions due to her Scheme account.
18. 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 fully engage with either my Office or Ms T. Although it agreed to pay the unpaid contributions, it never actually completed a payment. It has also failed to respond to the Caseworker's Opinion.
19. The Employer's failure to pay employee and employer contributions into the Scheme amounts to unjust enrichment and has caused Ms T to suffer a financial loss. The Employer shall take remedial action to put this right.
20. Ms T is entitled to a distress and inconvenience award in respect of the serious ongoing non-financial injustice which she has suffered. This was exacerbated by its failure to respond fully to my Office's investigation into Ms T's complaint.

## **Directions**

21. To put matters right, the Employer shall, within 28 days of the date of this Determination:
  - (i) pay Ms T £1,000 for the serious distress and inconvenience she has experienced;
  - (ii) produce a schedule (**the Schedule**) showing the employee contributions deducted from Ms T's pay in respect of the period of her employment. The Schedule shall also include the corresponding employer contributions that were due to the Scheme; and
  - (iii) forward the Schedule to Ms T.
22. The Employer shall, within 14 days of receiving a request by Ms T, provide her with any reasonable additional information, in order for her to be able to check the details in the Schedule.
23. Within 14 days of receiving confirmation from Ms T that she agrees with the information on the Schedule, the Employer shall:
  - (i) pay the missing contributions to the Scheme;
  - (ii) establish with the Scheme whether the late payment of contributions has meant that fewer units were purchased in Ms T's Scheme account than she would have otherwise secured, had the contributions been paid on time; and
  - (iii) pay any reasonable administration fee should the Scheme administrator charge a fee for carrying out the above calculation.

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24. Within 14 days of receiving confirmation from Scottish Widows of any shortfall in Ms T's units, pay the cost of purchasing any additional units required to make up the shortfall.

**Anthony Arter CBE**

Deputy Pensions Ombudsman  
27 January 2023

**Appendix**

Date	Employee contributions	Employer contributions
January 2017	£13.33	£16.67
February 2017	£13.33	£16.67
March 2017	£13.33	£16.67
April 2017	£13.33	£16.67
May 2017	£13.33	£16.67
June 2017	£13.33	£16.67
July 2017	£13.33	£16.67
August 2017	£13.33	£16.67
September 2017	£13.33	£16.67
October 2017	£13.33	£16.67
November 2017	£13.33	£16.67
December 2017	£13.33	£16.67
January 2018	£13.33	£16.67
February 2018	£13.33	£16.67
March 2018	£13.33	£16.67
April 2018	£13.33	£16.67
May 2018	£40.00	£33.33
June 2018	£40.00	£33.33
July 2018	£40.00	£33.33