

## **The complaint**

Mr B complains that Nutmeg Savings and Investments Limited failed to inform him in time that his bank had rejected the direct debit that they'd tried to use to collect a contribution to his pension.

Mr B says that because of this, he wasn't able to make the pension contribution, so it would arrive in his plan in the 2022/23 tax year. He would now like Nutmeg to refund the lost tax relief that he says he's missed out on because of their actions.

## **What happened**

In December 2020, Mr B set up a direct debit instruction to make a single contribution to his Nutmeg pension. The intention was, that as and when he wished to make further contributions to his pension in the future, Nutmeg could then use the same direct debit instruction.

In March 2023, Mr B contacted Nutmeg explaining that he wished to make a further contribution into his plan. Mr B was keen to ensure that the payment was collected before the end of the tax year. As Mr B's bank details hadn't altered, he understood the existing direct debit that Nutmeg had on their systems would be adequate.

On 4 April 2023, Nutmeg contacted Mr B to explain that having tried to take payment, his bank had informed them that the existing direct debit had become dormant and as such, a new instruction would need to be set up. The following day, Mr B contacted Nutmeg but by this stage, the opportunity to set up a new direct debit and have the payment reach his pension before the end of the tax year had passed.

Shortly afterwards, Mr B decided to formally complain to Nutmeg. In summary, he said Nutmeg should've informed him sooner that his existing direct debit had become dormant and as such, a new instruction would need to be created. Mr B felt it was because of Nutmeg's failure to keep him abreast of the direct debit rules that he subsequently missed out on the tax relief he could've claimed.

After reviewing Mr B's complaint, Nutmeg concluded that they were satisfied they'd done nothing wrong. They also said, in summary, that as soon as they'd become aware that Mr B's direct debit instruction had been rejected by his bank, they'd highlighted this to him. Nutmeg went on to say that if Mr B still wished to make a pension contribution, he could make use of the pension Carry Forward rules.

Mr B was unhappy with Nutmeg's response so he referred his complaint to this service. In summary, he repeated the same concerns he'd set out to Nutmeg.

The complaint was then considered by one of our Investigators. He concluded that Nutmeg had acted reasonably in its dealings with Mr B. Our Investigator said that as far as he could

see, Nutmeg had highlighted the problem with Mr B soon after being advised by his bank that they wouldn't accept the existing Direct Debit.

Mr B, however, disagreed with our Investigator's findings. In summary, he said given that Nutmeg knew when the last Direct Debit had been taken from his bank account, they should've realised that it had become dormant and as such, cancelled. Mr B says Nutmeg should've made him aware of this. At the very least, Mr B says, Nutmeg should've telephoned him when they realised there was an issue with the collection of the payment, particularly in light of how close the tax year end was approaching. In addition, Mr B has explained that had Nutmeg informed him of the dormancy rules earlier, he could've taken steps to ensure a new direct debit had been set up.

Our Investigator was not persuaded to change his view as he didn't believe Mr B had presented any new arguments he'd not already considered or responded to. Unhappy with that outcome, Mr B then asked the Investigator to pass the case to an Ombudsman to review the complaint.

### **What I've decided – and why**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

I think it's important for me to note that I very much recognise Mr B's strength of feeling about this matter. He has provided detailed submissions which I've taken time to read and consider very carefully. However, I hope that Mr B and Nutmeg won't take the fact that my findings focus on what I consider to be the central issues, and not in as much detail as they have outlined, as a discourtesy.

The purpose of my decision isn't to address every single point raised. My role is to consider the evidence presented by Mr B and Nutmeg and to reach what I think is an independent, fair and reasonable decision based on the facts of this case. In deciding what's fair and reasonable, I must consider the relevant law, regulations and best industry practice, but it is for me to decide, based on the available information I've been given, what's more likely than not to have happened. Having done so, I'm not upholding Mr B's complaint. I'm in agreement with the Investigator's initial view and for broadly the same reasons. I appreciate that'll likely come as a disappointment to Mr B, so I'll explain why below.

I've looked closely at the timeline of this complaint. Mr B contacted Nutmeg on 27 March 2023 asking them to collect a one-off pension contribution of £9,200. Whilst Nutmeg sent confirmation of the instruction to Mr B that stated the payment would be made the same day, further correspondence was issued that stated that the payment could take up to 10 working days to complete. After Nutmeg requested payment, Mr B's bank informed Nutmeg on 3 April 2023 that the existing direct debit had become dormant, and a new instruction would need to be set up. The following day, Nutmeg informed Mr B of this and on 5 April 2023, Mr B responded to Nutmeg's message of 4 April 2023. He asked whether it was too late to arrange a payment so it would arrive in his pension before the end of the tax year. By this point, it was too late and Nutmeg's response of 6 April 2023 (in the new tax year) confirmed this. So, it seems to me that Mr B asked Nutmeg to make a payment to his pension, Nutmeg then approached Mr B's bank to collect that payment within the timescales they set out, but it was Mr B's bank who were unable to provide Nutmeg with the monies to fund his pension.

In addition, once Nutmeg found out that Mr B's bank wouldn't send them the funds, they

contacted Mr B the following day to let him know. So, I'm satisfied that they acted in a timely manner. Mr B says he would've expected Nutmeg to phone him given the urgency of the issue. However, I'm not convinced that had they done, it would've made any difference to the outcome.

I've taken a look at Nutmeg's website and it states that the only payment method they can accept for their pension product is via direct debit. Therefore, Mr B couldn't have made alternate arrangements with his bank when he realised his direct debit had been cancelled. In addition, Nutmeg's website also states that when a new direct debit is set up, the first collection can take up to 10 business days. So, even if Mr B had been aware on 27 March 2023 that he needed to set up a new direct debit, there wasn't then enough time between then and 5 April 2023 (tax year end), that would've allowed Nutmeg the opportunity to set up the new payment authority, collect the premium and apply it to his pension. As the direct debit had become dormant, the latest Mr B could've been sure his contribution would've been credited to his pension was if he had asked Nutmeg to set up the direct debit no later than 22 March 2023.

I've also thought about whether Nutmeg should've been aware that Mr B's direct debit had become dormant. Whilst the direct debit website does confirm banks and building societies will typically hold direct debit details on file for a minimum period of 24 months, I wouldn't expect Nutmeg to know the precise arrangements between different institutions which can and do differ. In addition, they were only advised that the direct debit had become dormant when they attempted to collect Mr B's 2022/23 pension contribution.

Mr B says he's unhappy that Nutmeg's online portal showed his direct debit option as still being available despite the fact that it had become dormant. Whilst I can well appreciate Mr B must've thought that there wouldn't have been a problem, Nutmeg only found out that there was an issue with it after they'd tried to collect the premium.

Mr B's bank was within its rights to decline the payment request, particularly given the amount and the fact that Mr B hadn't made a similar payment to Nutmeg in nearly three years. The dormancy rules are there to protect consumers. Mr B should contact his bank to understand their terms and conditions relating to expired direct debits. The run up to the tax year end is always a very busy time for pension providers as many consumers decide to utilise unused tax relief. However, it's the consumers' responsibility to ensure that they apply in good time to allow for any payment issues and as such, I don't think Nutmeg acted unreasonably in the circumstances.

### **My final decision**

I don't uphold the complaint and won't be instructing Nutmeg Savings and Investments Limited to take any action.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 29 September 2023.

Simon Fox  
**Ombudsman**