



FAQs on remittance of contributions

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Table of contents

1. What are the provisions in relation to contributions?.....	3
2. What contributions are affected by the requirement?.....	3
3. Are there any additional duties on trustees with regards to contributions?	3
4. Are there rules around how contributions should be invested?.....	3
5. Does the requirement to remit employee contributions deducted, and to provide written confirmation, also apply to additional voluntary contributions (AVCs)?	4
6. Do all failures to remit contributions require a mandatory report (whistle-blow) to the Pensions Authority?	4
7. What format should a report to the Authority relating to non-remittance of contributions take?	5
8. In accordance with section 58A(2), can employer's contributions only be remitted monthly? What happens if an employer currently remits fortnightly?	7
9. What circumstances are there, if any, in which fees may be deducted by trustees from remitted contributions?	7
10. What needs to be notified by employers?	7
11. Do employer contributions paid in respect of life assurance benefits have to be notified to the employee?	8



1. What are the provisions in relation to contributions?

Section 58A of the Pensions Act, 1990, as amended (the Act), requires employers to remit certain contributions in respect of an occupational pension scheme or trust RAC (both referred to hereafter as 'scheme') within a specified time period. Under section 59(1)(a) of the Act, trustees are required to ensure, insofar as is reasonable, that the contributions payable by the employer and the members of the scheme, where appropriate, are received.

2. What contributions are affected by the requirement?

Section 58A(1) of the Act requires that all employee contributions deducted from the employee's wages/salary must be remitted to the trustees of the scheme, or to another person on their behalf, within 21 days from the end of the month in which the deduction was made.

Section 58A(2) requires that all employer contributions payable in respect of a defined contribution (DC) scheme and expressed as a cash amount or as a percentage or proportion of an employee's wages/salary and payable in respect of that employee, must be paid within 21 days from the end of each month to the trustees of the scheme, or to another person on their behalf.

3. Are there any additional duties on trustees with regards to contributions?

Section 59(1)(a) of the Act requires trustees of occupational pension schemes to invest the contributions in accordance with section 59(1)(b), within 10 days of the latest date on which they should have been remitted or paid by the employer under section 58A(1) or (2). Section 59(1)(aa) requires trustees to invest the contributions to a trust RAC in accordance with section 59(1)(b), within 10 days of the end of the month in which the contributions are received.

4. Are there rules around how contributions should be invested?

Section 59(1)(a) of the Act requires that the contributions be invested in accordance with section 59(1)(b) within 10 days of the date specified. Section 59(1)(b) imposes an obligation on trustees to provide for the proper investment of the resources of the scheme in accordance with section 59AB and, subject to that section, and subsection (2), in accordance with the rules of the scheme.



5. Does the requirement to remit employee contributions deducted, and to provide written confirmation, also apply to additional voluntary contributions (AVCs)?

The provisions of section 58A of the Act apply to all contributions deducted.

6. Do all failures to remit contributions require a mandatory report (whistle-blow) to the Pensions Authority?

Failure to comply with the payment deadlines (non-remittance or non-investment of contributions) will not require automatic reporting to the Pensions Authority (the Authority). The reporting requirements under section 83(1) of the Act apply. A 'relevant person' must report where they have reasonable cause to believe that a fraudulent conversion or material misappropriation has occurred, is occurring or is to be attempted.

Additional reporting obligations apply, under section 83(2H) of the Act, to key function holders (KFHs), who must inform the Authority where they believe there is a substantial risk that a scheme will not comply with a materially significant statutory requirement, or that a significant material breach of statutory requirements has occurred, and the trustees have failed to take appropriate remedial action within 21 days of the matter being reported to them by the KFH. Certain protections apply under section 84 for any person making a report to the Authority (whether voluntary or required under section 83 of the Act) on any matter relating to the state and conduct of a scheme.

In summary, a 'relevant person' will have an obligation to report where there has been a failure to remit contributions and that person has reasonable cause to believe that fraud or material misappropriation has occurred, is occurring or is to be attempted. A KFH will have an obligation to inform the Authority where they believe there is a substantial risk of non-compliance with a materially significant statutory requirement, or a significant material breach of statutory requirements, and the trustees have failed to take appropriate remedial action within 21 days of the matter being reported to them by the KFH.

Non-remittance or non-investment of contributions can indicate that there is a fraudulent conversion or a material misappropriation of the resources of a scheme which should be reported to the Authority under section 83(1). Whether it does so indicate will depend on the facts of the particular case. Section 83(1) also states that the report should be made 'as soon as practicable'. While section 83 does not state that the relevant person must investigate the reason for any non-payment of contributions, the Authority would expect that in the ordinary course, following any non-

remittance within the 21-day period, the situation would be investigated by the relevant person to ascertain the facts.

Firstly, it would be appropriate to investigate whether there is in fact non-remittance or non-investment. For example, a number of different scenarios could explain an apparent non-remittance or non-investment of contributions.

- The contributions were not deducted from the employee. As an example, this could be because the employee has left service. Obviously in this case there has been no breach and therefore there can be no requirement to report to the Authority.
- No obligation to pay contributions to the administrator (on the employer's part) existed. As an example, the scheme may have switched to another administrator, or the employer may have suspended contributions in accordance with the scheme rules. Again, there has been no breach and therefore there can be no requirement to report to the Authority.

Secondly, once it is established that there has been non-remittance or non-investment of contributions, the 'relevant person' will need to decide whether there is reasonable cause to believe that a fraudulent conversion or a material misappropriation has occurred, is occurring or about to be attempted. For example, it may be the case that the contributions were not paid but the situation is rectified, and circumstances are such that there is no reason to suspect fraud or material misappropriation. In such a situation it is a question of judgement for the relevant person as to whether a report is required. If in doubt, contact the Authority to discuss the situation.

The Authority recognises that it may take some time to establish the facts of the case, but relevant persons need to be aware that the sooner the matter is addressed the better the chances of rectifying it. The Authority would be concerned to receive reports under section 83 where contributions have been outstanding for more than three months. The Authority has specified the format that the report should take so that all of the information required by the Authority to investigate the issue is submitted with the report.

7. What format should a report to the Authority relating to non-remittance of contributions take?

Details of the format of the report is available from the [whistle-blowing page on the Authority's website](#).

As the Authority has previously indicated, there is no mandatory requirement to report a failure to remit contributions. There is only a mandatory requirement to make a report to the Authority if there is reasonable cause to believe that a fraudulent conversion or

material misappropriation of the scheme assets has occurred, is occurring or is to be attempted, and, in the case of KFHS, to inform the Authority where they believe there is a substantial risk that a scheme will not comply with a materially significant statutory requirement, or that a significant material breach of statutory requirements has occurred, and the trustees have failed to take appropriate remedial action within 21 days of the matter being reported to them by the KFHS.

Non-remittance of contributions may be an indication of misappropriation or fraud, but it will not necessarily be so. The Authority would expect that providers and advisers will know their clients and will be in the best position to judge if a report is warranted (either on a mandatory or voluntary basis). When it has been decided that a report is necessary, the Authority would expect the following information to be provided, in order that the matter can be investigated:

- Scheme name,
- Pensions Authority registration number,
- Employer name,
- Employer address,
- Current trustee details,
- Number of active members in scheme,
- Period for which contributions have not been remitted,
- Total amount outstanding,
- Breakdown of total between employer and employee contributions,
- Steps taken to address the issue with trustees and/or employer,
- Whether or not members are aware of the issue, and
- Any other relevant information (e.g., if company is in receivership).

Failure to provide any of the information listed will likely lead to the Authority requesting it and will delay the investigation process. If any of the information is unknown, this should be stated.

The Authority previously stated that it would be concerned to receive reports where more than three months contributions are outstanding. This relates particularly to a scheme where there would be reasonable cause for concern. The reason for this is that, in practice, where there are real issues in relation to non-remittance particularly if the employer is experiencing financial difficulties, they are more easily dealt with if they are tackled early.

Of course, if at any point misappropriation or fraud is suspected this should be immediately reported.

8. In accordance with section 58A(2), can employer's contributions only be remitted monthly? What happens if an employer currently remits fortnightly?

The requirement in section 58A(2) of the Act is that a sum equal to the appropriate cash amount or percentage or proportion of every payment of wages or salary made to that employee during that month must be remitted 'within 21 days following the end of every month'. While the sum must be remitted within 21 days following the end of every month there is no requirement that it be made in one monthly payment. In other words, where an employer's payments are remitted fortnightly, so long as a sum equal to the full amount is remitted within 21 days following the end of every month, there is no reason why this cannot be done via more than one payment made within that period.

9. What circumstances are there, if any, in which fees may be deducted by trustees from remitted contributions?

Section 58A of the Act requires the employer to remit contributions without any deduction. Therefore, the full amount of contributions must be remitted by the employer. Section 59(1)(a) requires that the relevant contributions be invested by the trustees in accordance with section 59(1)(b) within 10 days. Section 59(1)(b) imposes the obligation on trustees to provide for proper investment of the resources of the scheme in accordance with section 59AB and, subject to that section, and subsection (2), in accordance with the rules of the scheme.

10. What needs to be notified by employers?

Under section 58A(3) of the Act, employers must ensure that a statement is issued at least once a month to employees, and to the trustees or the person to whom the employer remits contributions directly, specifying the amount of contributions remitted. In relation to a defined benefit scheme, this statement should specify the amount of employee contribution which has been remitted. In relation to a DC scheme, the statement should specify the amount of both the employee and employer contribution remitted.

This disclosure to employees can be made via the payslip. The actual amount remitted during the period to which the statement relates may be specified on the payslip or, alternatively, where the amount of employee deduction and employer contribution which were specified on the previous payslip have since been remitted, a statement to that effect may be included on or with the payslip.



11. Do employer contributions paid in respect of life assurance benefits have to be notified to the employee?

Section 58A(3) of the Act requires the disclosure of contributions paid on behalf of or in respect of a specific employee. This means that where an employer pays a premium for a group life assurance contract he is not required to disclose this under section 58A(3). If, however, the employees' life assurance benefits are insured on an individual basis this would need to be disclosed.