



Pensions briefing

Speeding up the pensions complaints journey

Briefing

September 2018

Introduction

Pension scheme members and scheme administration teams should be starting to see much faster resolution of complaints following a raft of reforms to the Pensions Ombudsman's office, culminating in the transfer of the dispute resolution function of The Pensions Advisory Service to the office of the Pensions Ombudsman this April.

For members the journey has been made much simpler, following improvements to the signposting of ombudsman services, the triage of complaints and overall approach to their handling. For trustees and employers, this should mean a significant reduction in the time taken, and cost of, dealing with disputes.

Better signposting

The set-up now is that

- Complaints or disputes about workplace or personal pension arrangements should now be referred to the Pensions Ombudsman (TPO).
- General requests for information or guidance should now be referred to The Pensions Advisory Service (TPAS).

In due course (probably early in 2019), TPAS, the Money Advisory Service and Pension Wise will merge into a new single financial guidance body. The new entity will provide advice and guidance on pensions, debt and other money issues.

Trustees are being encouraged to communicate the change of focus to members now, in advance of formal disclosure requirements being changed. At the moment trustees are required to tell members that TPAS is available to help with pensions questions and unresolved issues with trustees, and that TPO may investigate and determine complaints. Trustees also have to give this information as part of the internal dispute resolution procedure (IDRP). This requirement is now out of date, but will continue, technically, to apply until the law changes, something that is being held up by Brexit. However the Department for Work and Pensions and the Pensions Regulator have **agreed** that trustees can give members the right information now, without risking a breach of statutory requirements.

There is also better redirection of complaints. It used to be that members, confused by the jurisdictions of TPO and the Financial Ombudsman Service, would approach the wrong service, and find themselves back at square one when their complaint was turned away. Now, thanks to a revised **Memorandum of Understanding** between the two services, whether a member brings their concern to TPO, or the Financial Ombudsman Service, they are now being directed to the correct service. Each service also has a useful **leaflet** to help members decide where to go.

Change of complaint journey – the Early Resolution Service

The process for dealing with pension disputes has also been streamlined. TPO now operates a four stage process, summarised below. From the member's perspective there are two forms to fill in as they go along, an initial permission to let TPO investigate and contact the scheme/ employer, and then a formal complaint form. Time continues to run for the purposes of limitation periods until a formal complaint is made.

First Contact

A team which deals with initial member contact. They resolve a large proportion of all queries, and pass through those they cannot immediately resolve to a triage team who allocate complaints according to complexity, urgency and severity. Most unresolved matters go to ERS (below), but those which are more complex (or nearing their three-year limitation period) go direct to the Adjudication Service.

Early Resolution Service (ERS)

This includes the original TPAS dispute resolution team and volunteer advisers. The ERS is a quick, informal and streamlined process. ERS advisers are strictly impartial; they investigate complaints to identify the underlying issues, guide the member through the process and try to mediate a resolution. As before, members don't have to complete IDRP before getting ERS help.

Adjudication Service

This is a more formal investigation process where first contact and ERS have not been able to resolve the dispute. The member must fill in a formal complaint at this stage, and where required, go through their IDRP. The investigators can issue informal decisions (known as opinions), which are not made public. If either party disagrees with the outcome, the matter can be referred for a formal determination.

Pensions Ombudsman determination

This is a formal decision-making process. Usually TPO issues a draft determination, followed by a fully considered determination that would ordinarily be made public.

Comment

This evolution of the service shows that TPO is listening to stakeholders. The recently published [Corporate Plan](#) states that over the next three years, TPO is committed to communicating with a view to influencing industry to adopt a one-stage IDRPs and also to considering earlier intervention in disputes. An example is given of reaching out to providers and schemes to either avoid complaints arising in the first place or to assist in resolution if they materialise.

TPO also states that the dispute resolution volunteer network will be used to help gain a wider and deeper understanding of complaints handling in the industry. In addition, guidance and newsletters will be produced for the pensions industry. As a result of TPO engaging in these “key deliverables”, we should see a simpler and quicker customer experience in the resolution of pension disputes. TPO’s hope is that resolution times will be halved to just over five months.

Tips

- Update member communications to signpost the changed responsibilities of TPO and TPAS.
- Think about including a link to the [FOS/TPO leaflet](#) to help members understand their options.
- Treat the ERS process as an opportunity to correct misunderstandings, check processes and take the steam out of confrontations. The ERS advisers are there to help both parties.

Contacts

If you would like further information please contact:

London



Lesley Browning

Partner

Tel +44 20 7444 2448

lesley.browning@nortonrosefulbright.com



Peter Ford

Partner

Tel +44 20 7444 2711

peter.ford@nortonrosefulbright.com

Norton Rose Fulbright

Norton Rose Fulbright is a global law firm. We provide the world's preeminent corporations and financial institutions with a full business law service. We have more than 4000 lawyers and other legal staff based in more than 50 cities across Europe, the United States, Canada, Latin America, Asia, Australia, the Middle East and Africa.

Recognized for our industry focus, we are strong across all the key industry sectors: financial institutions; energy; infrastructure, mining and commodities; transport; technology and innovation; and life sciences and healthcare. Through our global risk advisory group, we leverage our industry experience with our knowledge of legal, regulatory, compliance and governance issues to provide our clients with practical solutions to the legal and regulatory risks facing their businesses.

Wherever we are, we operate in accordance with our global business principles of quality, unity and integrity. We aim to provide the highest possible standard of legal service in each of our offices and to maintain that level of quality at every point of contact.

Norton Rose Fulbright Verein, a Swiss verein, helps coordinate the activities of Norton Rose Fulbright members but does not itself provide legal services to clients. Norton Rose Fulbright has offices in more than 50 cities worldwide, including London, Houston, New York, Toronto, Mexico City, Hong Kong, Sydney and Johannesburg. For more information, see nortonrosefulbright.com/legal-notices.

The purpose of this communication is to provide information as to developments in the law. It does not contain a full analysis of the law nor does it constitute an opinion of any Norton Rose Fulbright entity on the points of law discussed. You must take specific legal advice on any particular matter which concerns you. If you require any advice or further information, please speak to your usual contact at Norton Rose Fulbright.