

Issue 3 – January 2018

Welcome to The Pensions Ombudsman News

Welcome to the third edition of our Stakeholder Newsletter. It's been a busy time at The Pensions Ombudsman since the first edition was launched earlier this year. We continue to work on important projects to improve signposting to our service and encouraging schemes to move towards one-stage Informal Dispute Resolution Procedure (IDRP).

In addition, we have introduced a Freephone number (0800 917 4487) and have been working with TPAS to create one centre for the resolution of disputes.

Our first Legal Forum in September was followed by our Stakeholder Engagement event in November. Both events were a great success with lots of discussion and opportunities to network, and meet with people across the pensions industry.

Please get in touch if you would like to contribute to future newsletters or discuss any of these news items. Contact our stakeholder manager: mairi.spiby@pensions-ombudsman.org.uk.

resulting in some overlap.

Updated MoU between TPO and FOS published

The Pensions Ombudsman (TPO) and the Financial Ombudsman Service (FOS) have signed an updated [Memorandum of Understanding](#) (MoU) to improve the exchange of information on complaints. The MoU sets out each organisation's jurisdiction, in regards to pension matters, to ensure anybody with a pension complaint can be directed to the right organisation. TPO will investigate complaints and disputes around the administration and management of both occupational and personal pension schemes. FOS investigates complaints about taking out a pension but can also consider complaints around the administration of personal pensions (but not occupational schemes)

Anthony Arter, Pensions Ombudsman said: "This important document should ensure that customers are aware where they can go when they need help to resolve their pension complaints."

Financial Conduct Authority (FCA) to ask firms to direct complaints to TPO

The FCA has launched a [consultation](#) on changes to the FCA Handbook rules for authorised firms in respect of signposting customers to TPO as well as the FOS. The consultation closes on 1 February 2018 with any changes due to come into effect on 1 April 2018.

The FCA has proposed changes to its rules in relation to personal pensions complaints stating that, ‘where relevant, and additionally to requirements regarding the FOS, advisers can provide eligible complainants with information about TPO. In addition, respondents can refer eligible complainants to TPO using prescribed wording when issuing a final response’.

Anthony Arter, Pensions Ombudsman said: “We are extremely pleased that the Financial Conduct Authority has detailed its plans to update signposting to the public and pensions industry to provide clarity in respect of the services provided by the two organisations.”

The Pensions Advisory Service (TPAS) dispute resolution function moves to TPO

The Pensions Advisory Service’s (TPAS) dispute resolution function is moving to The Pensions Ombudsman (TPO). The transfer will be completed by 1 April 2018. More details will be announced in due course.

The Pensions Ombudsman holds first Stakeholder Engagement event

The Pensions Ombudsman (TPO) held its first Stakeholder Engagement event in November, bringing together people working across the pensions industry. Delegates attending included representatives from large private pension schemes, pension administrators, public sector pension schemes, trustees and those working with consumers.

The Stakeholder event is designed to improve communication and discussion about how we can work together, share information and best practice to improve the customer journey. We are keen to build on our relationship with key stakeholders and encourage people to work together across the industry.

Anthony opened the event by welcoming everyone and noted the importance of our relationship with stakeholders. He spoke about the significance of working together and emphasised that better communication between all parties could lead to quicker resolutions of complaints, which is in everyone’s interests, including complainants. He encouraged stakeholders not already using a one-stage internal disputes resolution procedure (IDRP) process to consider adopting this approach.

Topics of discussion at the event included complying with General Data Protection Regulations (GDPR), which comes into effect in May 2018, our approach to IDRP and Distress and Inconvenience (D&I), in light of recent case law (e.g. Baugniet v Capita Employee Benefits Ltd (t/a Teachers’ Pensions), and Smith v Sheffield Teaching Hospitals NHS Foundation Trust).

In particular, TPO invited views about having fixed amounts with regards to awards for D&I unless in a highly exceptional case where more than £2,000 might be awarded. The response from delegates was mixed. Some stakeholders said that guidance will help to provide consistency, while others voiced concerns about lack of flexibility i.e. if a scheme feels an award falls between two of the fixed awards, what should be awarded?

Further topics that were discussed, included the Limitation Act and judgment in Webber. In addition, delegates were keen to learn more about the how the ‘reasonableness’ test is applied by TPO in different cases.

Visit to the Scottish Public Sector Ombudsman (SPSO) and Scottish Public Pensions Agency (SPPA)

On 23 November, we visited the team at the SPSO to understand how they resolve complaints at source. SPSO are leading the standard on the complaint process, improving accessibility, producing training materials for complaint handling and providing information for employers to better support their complaint handling staff.

The SPSO is responsible for the final stage of all complaints in Scotland relating to councils, the NHS, housing associations, colleges and universities, prisons, the Scottish Government and most Scottish Authorities.

We also met with colleagues from the SPPA to learn about their new ways of working and share the changes TPO has introduced.

We are keen to build our stakeholder relationship with both SPSO and the SPPA. SPPA, which regulates the NHS Superannuation Scheme (Scotland) and Scottish Teachers’ Superannuation Scheme plans to move to a robust one-stage IDRP process. We are interested to learn how successful SPPA has been in securing agreement from employers, trustees, unions and employees. For more information visit the [SPSO](#) and [SPPA](#) website.

TPO is also pleased to announce that we are working with the SPSO and SPPA on signposting of pension disputes to TPO.

The Pensions Ombudsman holds first Legal Forum

TPO launched its first specialist event for lawyers in September with a cross-section of legal representatives from a range of providers and statutory schemes. Members of the Association of Pensions Lawyers Litigation Forum, the Public Sector Legal Forum and the Parliamentary Legislative Committee were also in attendance.

The Legal Forum aims to provide guidance and assistance on TPO’s approach, share ways in which we can reduce the number of complaints that are referred to us and speed up complaints handling. We hope that our work with the Legal Forum will help to achieve our goals of providing an impartial, consistent, expert pensions dispute resolution service.

Background

The relationship with our stakeholders is extremely important, bearing in mind that the customer journey does not always start and end within our organisation. By improving stakeholder engagement we aim to improve communication and achieve a better understanding of the needs of our customers.

During the summer we consulted with a wide range of organisations to gauge interest and seek their input. We wanted to provide a transparent forum to discuss, for example, how changes in legislation and significant rulings influence the work we all do and the decisions we are able to make.

What happened?

In order to establish trust, encourage open and frank debate and the sharing of meaningful information, in confidence, Chatham House Rules were adopted and terms of reference were agreed in advance. It was agreed that specific cases would not be discussed in order to maintain the impartiality of TPO in our complaint handling and decision making. The group unanimously agreed to discuss the following topics:

- the recent case of *Webber v Department for Education [2016] EWHC 2519 (Ch)* and how TPO has adapted its handling of overpayment complaints in light of this;
- TPO's approach to awards for non-financial injustice;
- TPO's new approach to complaint handling more generally, as well as TPO's desire to resolve more complaints informally and reduce the length of the complaints handling process;
- the procedure for appeals against Ombudsman determinations; and
- providers' current experiences around transfer requests involving pension liberation concerns.

We plan to hold the next meeting in April 2018.

Appeals against Ombudsman determinations

Appeals formed the basis of some discussion at the Legal Forum. TPO wanted to highlight why it is important for us to be notified of appeals against our decisions and

what legal representatives can do to help with this.

TPO produced bespoke guidance on appeals against Ombudsman determinations. We hope that the parties appealing Ombudsman determinations (whether legally represented or not) will ensure that they keep TPO informed if there has been an appeal; keep TPO updated as to the progress of the appeal; send TPO copies of any key documents; and notify us of any hearing dates. Once the appeal is concluded we ask that the parties please also ensure that TPO is sent a copy of the relevant judgment.

New apprenticeship scheme at TPO

We welcomed our new apprentice, Sean Francis as Casework Assistant in November. He will be spending some time working with the jurisdiction team before starting to rotate around the organisation and taking various qualifications.