

## Future fit

# The Pensions Ombudsman





The Pensions Ombudsman (TPO) provides an invaluable service investigating complaints raised by consumers in relation to occupational and personal pension schemes. It is impartial, has wide ranging and unique powers and offers parties a legally binding outcome.

In the face of ever-increasing demands for its services, TPO has made a significant number of changes to its working practices and processes. This document highlights key new trends and features of the Pensions Ombudsman service, made to improve performance and future-proof the organisation.



### Common themes

TPO's annual report for 2017/18 confirms that it was contacted 6,319 times and completed 1,591 investigations during the year. Unsurprisingly, transfers topped the list as the most common topic of complaint, the number of transfer-related complaints having doubled since 2017, particularly regarding the calculation of transfer values or delays in payment. This reflects our experience in practice and a nervousness on the part of trustees regarding transfer payments, particularly in relation to the risk of pension liberation scams. Second and third on the list are concerns regarding the incorrect calculation of benefits and failure to provide information or act on instructions. Trustees and employers should be reminded that these are potential areas of risk and to proceed with caution in the event of member discontent.

The majority of TPO's investigations (70%) were dealt with through informal routes, for example, resolution, and around 29% of complaints determined by TPO were upheld at least in part. TPO has also exceeded the target it set in 2017 to complete investigations within seven months of the date they are received and completed new investigations within five months on average.

TPO is taking further steps to refine its processes and improve quality of output, introducing a digitalisation programme and, in future, a case management system, all seeking to improve customer experience and facilitate the expedient resolution of disputes.



## Awards for distress and inconvenience

In September 2018, following consultation with various stakeholders, TPO introduced a new scale for awarding compensation for distress and inconvenience. More formally known as “non-financial injustice,” this type of award is separate from awards for financial loss (which may, for example, require the reinstatement of benefits) and compensates for inconvenience, time and trouble and distress caused directly by maladministration.

Prior to these changes, trustees and employers were relatively unconcerned by this type of award as case law had previously indicated that an award over £1,000 should only be given in exceptional circumstances and typically, awards were much lower. A number of recent cases had suggested this should be increased to reflect inflation. The new scale now divides complaints into five categories (nominal, significant, serious, severe and exceptional) ranging from ‘no award’ to awards over £2,000, which is a significant increase.

Scheme administrators should, in particular, be aware of these changes. The more significant the maladministration (including the number of instances and period of time over which they have occurred, any excessive delay and whether the maladministration was avoidable) will be material to TPO’s determination and the level of any award. TPO will also take into account the manner in which the complaint was handled and whether it could have been resolved at an earlier stage.



## Approach to appeals

TPO has started to take a more proactive role in appeals against its determinations which come before the courts. Previously, TPO only participated in an appeal if the matter was likely to affect its jurisdiction or procedures. However, it has widened the circumstances where it may look to intervene and may participate where, for example, the decision is likely to have a wider impact on the industry, such as pension liberation or auto-enrolment or where there is a concern about access to justice.

This stance is commendable and it will be interesting to see the impact it has on TPO’s approach to complaints in the future.



## More streamlined approach

In early 2018, the dispute resolution arm of the Pensions Advisory Service (TPAS) joined the Pensions Ombudsman, together with 240 volunteers. TPAS’s dispute resolution team had previously focused on complaints before a scheme’s internal dispute resolution procedure (IDRP) had been completed, whilst TPO handled complaints that had been through the IDRP. All disputes are now dealt with by TPO, with the aim of “simplifying the customer journey”

and ensuring complaints are dealt with as quickly as possible. The remainder of TPAS has now also transferred to the new Money and Pensions Service (formerly the Single Financial Guidance Body), where it will continue to provide information and guidance.

Consumers who approach TPO now also have the option of using its Early Resolution Service, which does not require the scheme’s IDRP to have been completed, provided the parties agree with this approach. If the issue cannot be resolved, there is then still the option of using TPO Adjudication Service but the expectation is that the IDRP will have been completed before this takes place.



## Clearer signposting and public consultation

Following the combination of TPAS’s dispute resolution team with TPO, the DWP has taken steps to clarify to the industry and consumers that complaints and disputes about pension schemes should be referred to TPO and general requests for information and guidance to TPAS. In April 2018, the Financial Conduct Authority also updated its Handbook to reflect these changes, clarifying the position for financial advisers.

To date, because of the volume of legislation required to prepare for Brexit, the relevant regulatory provisions have not been updated to reflect these changes and the information that is required to be given by schemes in member communications and IDRPs. However, the DWP has reassured schemes that despite legislation still referring to the previous arrangements, they may wish to update their own signposting to reflect these changes.

In order to support the above steps and in furtherance of TPO’s aims, DWP launched a public consultation regarding TPO’s role in dispute resolution and potential widening of its jurisdiction which closed in January 2019. The focus was to seek views on proposals to:

- make new provision for dispute resolution by TPO, encouraging the early resolution of disputes before proceeding to a full determination and encouraging mediation between the parties
- allow employers to make complaints or refer disputes to TPO where, for example, the employer has chosen a group personal pension (GPP) arrangement for its employees
- require clearer signposting regarding who can make complaints to TPO, particularly in relation to personal pension arrangements

This is clearly a time of great change at TPO but the indications are that a lot of hard work is being done to improve the quality of the service provided for all parties. It will be interesting to see whether any further changes are made as a result of the recent consultation and what additional steps are taken to ensure TPO is fit for the future.

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