

Internal Disputes Resolution Procedures in Occupational Pension Schemes

Trustees of occupational pension schemes are required under legislation to put in place procedures for dealing with complaints and disputes that come under the jurisdiction of the Financial Services Pensions Ombudsman (FSPO).

The regulations do not prescribe the requirements for the procedures in detail. Trustees may determine the details of their own internal disputes resolution (IDR) procedure.

An IDR procedure gives members, former members and others who are entitled to make complaints, a formal method of doing so and can be used to resolve issues and problems. Obviously it is preferable to resolve such matters without having to approach the Regulator. An IDR procedure is not restricted to complaints which come within the jurisdiction of the FSPO.

It may – and should – be used on a voluntary basis to deal with complaints which:

- > Do not come within the jurisdiction of the FSPO.
- > Would normally come within the jurisdiction of the FSPO but which fall outside the statutory time limits.

The outcome of an IDR procedure is not binding on any party to a dispute. An individual is still entitled to refer a matter to the FSPO if he/she is dissatisfied and the matter is one over which the FSPO has jurisdiction.

Minimum requirements

The procedures established should be designed to deal with complaints made by actual or potential beneficiaries and disputes arising between actual or potential beneficiaries and the trustees, administrators or managers of the scheme.

A complaint for this purpose is one made by, or on behalf of, an actual or potential beneficiary, who alleges that he or she has sustained financial loss and that such loss was caused by maladministration done by or on behalf of a person responsible for the management of the scheme.

A dispute for this purpose is one of fact or law, referred by an actual or potential beneficiary which arises in relation to an act or omission by or on behalf of a person responsible for the management of the scheme. Certain matters cannot be decided by the FSPO, for example:

- > Questions as to whether a scheme is defined benefit or defined contribution and certain other matters prescribed by the Pensions Act must be decided by the Pensions Authority.
- > Issues concerning equal treatment must be decided by the Director of Equality Investigations.

The complaint is made to a relevant person. In the case of an occupational pension scheme in the Private Sector, this is the scheme trustees.

Important points

- > An IDR procedure must be established for all schemes. The trustees of each plan must have their own procedure - so if there is more than one scheme sponsored by an employer, the trustees of each must have their own procedure in place.



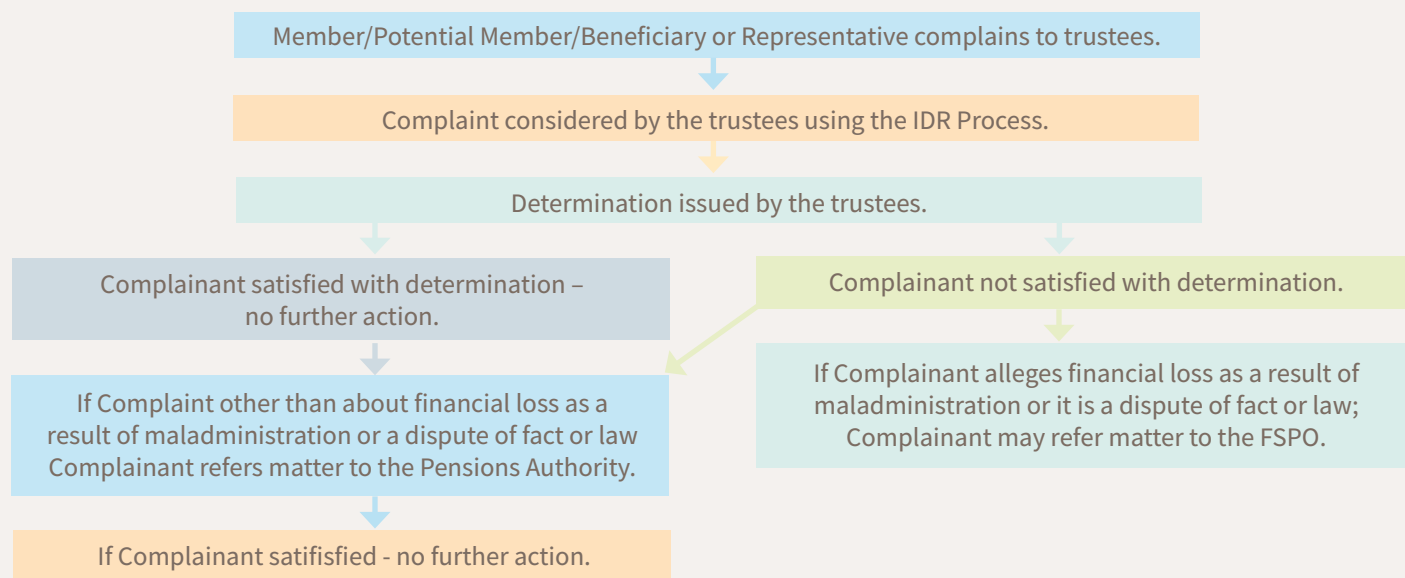
- > The Pensions Authority may check if an IDR procedure is in place as part of its scheme audits.
- > Ideally scheme trustees should have an independent person available to them to whom the task of making a judgement on a complaint or dispute may be given. This ensures the judgement is not made by somebody who has already been involved in the matter. The job of the independent person is to consider the details of the complaint and to suggest a solution. An independent person may not change the decision of the trustees when they have used their discretionary powers. Also, it is the trustees who must deliver the Notice of Determination.
- > It is desirable that scheme trustees notify members that the IDR procedure exists and how they may get details.
- > The complainant is not bound by the outcome of the IDR procedure. It is open to him/her to bring the complaint or dispute to the FSPO, who may then decide to investigate the matter. The complainant should be notified of this right when being told the outcome of the IDR procedure.
- > Many companies have formal industrial relations procedures in place. However, these would generally not be suitable for dealing with individual complaints or disputes arising under pension schemes. IDR procedures are a requirement for the trustees of a pension plan - they do not relate to industrial relation disputes between an employer and employee(s).

As stated above, trustees must establish an IDR procedure for each occupational pension scheme. To assist in this, we include a flow chart below which sets out how a typical IDR could work. Trustees should have a documented procedure which can be provided to their members and they should have draft templates to acknowledge receipt of, provide update on and to close out complaints. The close out letter should reference the right of the complainant to refer the matter to the FSPO. Full details of the statutory requirements can be found on the website of the FSPO, at www.fspo.ie

If you have any queries, please contact your Account Manager on 01 704 2000.

IDR Procedure flow chart

The following chart sets out the various steps involved.



Information correct as at November 2021.

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