

How we deal with your concerns

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If you don't understand something, or you think there is a problem, call our helpline on **0845 600 2541** and ask for an explanation right away. Often, matters can be sorted out quickly and easily if dealt with in this way. However, if you are dissatisfied with the answers you receive, you may want to seek a formal review of a decision, or make a formal complaint of maladministration.

The information in this guidance sets out the process for:

- making a formal complaint about maladministration relating to the way you or your case has been handled by the Pension Protection Fund;
- requesting a review of a decision taken by the Pension Protection Fund if you think a decision has been based on inaccurate or incomplete information or has not taken full account of all existing information.

The Pension Protection Fund will write to you to confirm we have received your formal complaint or request for a formal review. We also aim to make a decision on the matter within 28 days and if this is not possible we will write to you to explain why and let you know when we expect to send a decision to you.

When considering your complaint or request for a review decision the Pension Protection Fund has the power to revoke or vary its previous decision or substitute its decision with a different decision. The Board of the Pension Protection Fund may also pay such compensation as it considers appropriate to the person making the complaint and to such other persons as it determines.

You may also want to consider contacting The Pensions Advisory Service, an independent non-profit organisation that provides information and guidance on the whole spectrum of pensions issues. They may be able to help members of the public who have a problem, complaint or dispute. Their contact details are attached at Appendix A.

Who can make a complaint...?

You can make a formal complaint of maladministration to the Pension Protection Fund if you are, or might become, entitled to Pension Protection Fund compensation. In general terms, this means members of eligible pension schemes and their survivors. Examples of what might constitute maladministration are set out in Appendix B.

Additionally, from September 2005 the Pension Protection Fund will handle complaints and reviews in relation to the Fraud Compensation Fund. Regulations will prescribe who may make a complaint of maladministration in respect of the Fraud Compensation Fund.

Who can request for a decision to be reviewed?

If you are:

- a trustee or manager of an eligible pension scheme;
- a sponsoring employer;
- an insolvency practitioner acting in respect to a sponsoring employer;
- or
- a member of an eligible pension scheme,

and you do not understand a decision, or you wish to challenge a decision made by the Pension Protection Fund, you can phone or write to us requesting an explanation.

If you think that the decision or the explanation has been based on inaccurate or incomplete information, or has not taken full account of all existing information, then providing you are an authorised interested party in relation to that decision, you may be able to request that the decision be reviewed. Who will be considered to be an interested party for the purposes of requesting a decision review will depend on the decision under review.

There are a range of decisions which can be reviewed and these are set out in Appendix C.

Complaints/decision review process - overview

There is a three stage complaints/decision review process.

Stage One

The complaint or decision will be investigated and decided upon by a team leader who will not have been involved in the matter being complained about or the original decision.

Stage Two

If you are dissatisfied with the stage one decision, you may ask for the matter to be further investigated by the Reconsideration Committee of the Pension Protection Fund.

Stage Three

If you are dissatisfied with the stage two decision, you have the right to refer the matter to the independent Pension Protection Fund Ombudsman.

Time limits

There are time limits which apply to making a formal complaint and seeking a review of a decision. In some exceptional circumstances these time limits may be extended.

A 'stage one' application must be made within:

- 28 days from the date the incident occurred or when the decision was issued, or
- 28 days from the date you could reasonably have been expected to be aware of the matter.

A 'stage two' application must be made within:

- 28 days of the date of issue of the stage one decision.

When a correctly completed application has been made within the prescribed time limits, you will be sent confirmation of receipt of the application.

Once all the evidence required has been received, including any new evidence you wish to provide, the Pension Protection Fund will aim to make a decision within 28 days. If it cannot do that, it will inform you of this in writing and let you know the expected date the decision will be made.

Details of how to apply to the Pension Protection Fund Ombudsman will be provided in the letter setting out the stage two decision.

Stage one complaints/decision review procedure

If you wish to request a decision to be reviewed, or make a formal complaint of maladministration, you must do so in writing within the time limits set out above. You can do this by:

- downloading an application from the Pension Protection Fund website (www.pensionprotectionfund.org.uk), completing it and returning to the Pension Protection Fund by post; or
- phoning or writing to the Pension Protection Fund, requesting an application form, completing it and returning it to the Pension Protection Fund by post; or
- writing a letter containing all the required information as set out below.

Contact details are provided at the end of this guidance note.

Information required for a 'stage one' complaint or review of a decision

The following information is required to enable the Pension Protection Fund to address the issue you are raising. The absence of this information may hinder the investigation of your complaint or review of a decision. The application form fully sets out these requirements to assist you in making a complaint.

- Your name and address.
- The date:
 - on which you first became aware of the act or omission on which you are complaining; or
 - of the original determination, direction or other decision issued by the Pension Protection Fund.
- The grounds:
 - on which you are complaining; or
 - on which you are requesting a decision to be reviewed.
- If you are representing an individual you must include the name and address of the person you are representing and written confirmation from the individual authorising us to write to you as the individual's representative. You should also confirm whether your address is the address for correspondence in respect of the complaint or review.
- The application must be signed and dated by either you or your representative.

Any evidence to support your complaint or review request, and which may influence the decision, should be supplied at the time of making the formal complaint or request for a review decision.

Other interested parties

Any other interested parties who may be materially affected by the review decision will be informed of your application and be given the opportunity to make written submissions. They will also be sent a copy of the review decision.

The decision

The outcome of the 'stage one' decision will be sent to you in writing, and will include:

- Reasons for the decision;
- An explanation as to whether, and if so, to what extent the decision varies, revokes or replaces the original decision;
- Details of any compensation payable;
- References to any legislation that may be applicable; and
- Details of your right to request a stage two investigation.

The Pension Protection Fund may also send a summary of this decision to any other person it considers has also been disadvantaged or materially affected in relation to the subject of complaint or decision.

If the original decision is amended.....

If the review decision varies, revokes or replaces the original decision, details of the new decision (including reasons) will be provided in writing, including the date from which the review decision will take effect.

If the original decision is confirmed.....

If the review decision confirms the original decision, you will be informed of the decision (including reasons) in writing.

Next steps

If you are dissatisfied with the decision of the first stage review of a decision or complaint then you may take the matter further, to stage two of the complaints or reconsideration procedure.

Stage two procedure for reconsidering a complaint or review decision

If, after receiving the written stage one decision, you wish to take the matter further, you can make an application for a second review to the Reconsideration Committee of the Pension Protection Fund.

Your review or complaint will be investigated, and decided upon by the Reconsideration Committee which will ensure any person(s) involved in the matter and/or involved in the stage one decision will not take any part in the stage two decision.

The Reconsideration Committee will re-investigate the decision or complaint taking into account any existing, and new evidence (if any) that has been provided since the stage one decision. Based on its findings, the Committee will reach a decision in respect of the complaint or review.

If you wish to request a stage two review of a decision or complaint you must do so in writing within the time limits set out above. You can do this by:

- downloading the application from the Pension Protection Fund website (www.pensionprotectionfund.org.uk), completing this and returning it to the Pension Protection Fund by post; or
- phoning or writing to the Pension Protection Fund, requesting an application form, completing this and returning it to the Pension Protection Fund by post; or

- writing a letter containing all the required information.

Information required for a 'stage two' review of a decision or complaint

The following information is required to enable the Pension Protection Fund to address the issue you are raising. The absence of this information may hinder the investigation of your complaint or further review of a decision. The application form fully sets out these requirements to assist you in making a complaint.

- Your name and address.
- The date: of the stage one decision; and
 - (where applicable) of the original determination, direction or other decision issued by the Pension Protection Fund.
- The reason(s) for requesting a reconsideration of the stage one decision.
- If you are representing an individual you must include the name and address of the person you are representing and written confirmation from the individual authorising us to write to you as the individual's representative. You should also confirm whether your address is the address for correspondence in respect of the complaint or review.
- The application must be signed and dated by either your or your representative.

If you have any new evidence that may influence the decision of the Reconsideration Committee you should supply this at the time of making the stage two application.

Other interested parties

Any other interested parties who may be materially affected by the reconsideration decision will be informed of your application and be given the opportunity to make written submissions. They will also be sent a copy of the reconsideration decision.

The decision of the Reconsideration Committee

The stage two decision by the Reconsideration Committee will be sent to you in writing and will include:

- Reasons for the decision;
- An explanation as to whether, and if so, to what extent the decision varies, revokes or replaces the stage one decision;
- Details of any compensation payable;
- References to any relevant legislation; and

- Details of your right to refer the matter to the Pension Protection Fund Ombudsman, and contact details including the address of the Ombudsman.

The Pension Protection Fund may also send a summary of the stage two decision to any other person it considers has also been disadvantaged or materially affected in relation to the subject of complaint or review of the decision.

If the Reconsideration Committee decides to amend the decision

If, as a result of the stage two review, the Reconsideration Committee decides to amend, revoke or replace the original decision, details of the new decision (including reasons) will be provided in writing, including the date from which the amended decision will take effect.

If the Reconsideration Committee confirms the original decision

If the decision of the Reconsideration Committee confirms the original decision, you will be informed of the decision (including reasons) in writing.

Next steps

If you are dissatisfied with the stage two decision then you have the right to refer the matter to the Pension Protection Fund Ombudsman.

Details of how to apply to the Pension Protection Fund Ombudsman will be provided in the letter setting out the stage two decision.

Contact details for the Pension Protection Fund

The Complaints Officer
Pension Protection Fund
Knollys House
17 Addiscombe Road
Croydon
Surrey CR0 6SR

Telephone: 0845 600 2541

Text phone: 0845 600 2542

Fax: 020 8633 4903

E-mail: information@ppf.gsi.gov.uk

Appendix A

You can contact The Pensions Advisory Service at:

The Pensions Advisory Service
11 Belgrave Road
London
SW1V 1RB

Helpline: 0845 601 2923

Fax: 020 7233 8016

Email: enquiries@pensionsadvisoryservice.org.uk

Website: www.pensionsadvisoryservice.org.uk

What is maladministration?

An individual must be able to show that he or she has sustained injustice as a result of maladministration in connection with any act or omission by the Pension Protection Fund or any person exercising functions on its behalf. Sustaining an injustice is not limited to financial loss

There is no official definition of maladministration but it may include things such as bias, neglect, delay and incompetence. For example it would be considered maladministration if the Pension Protection Fund:

- takes too long to perform an action, without good reason;
- does not take an action that it should;
- does not follow its own rules or the law;
- breaks its promises;
- gives the wrong or misleading information; or
- does not make a decision in the correct way.

Appendix C

Reviewable matters

The list of reviewable matters can be found at Schedule 9 of the Pensions Act 2004 (the Act). This Appendix provides a summary of those matters:

- 1 The issue of a section 123 notice approving an insolvency practitioner's notice issued under a section 122 notice.
- 2 The failure to issue a section 123 notice approving an insolvency practitioner's section 122 notice.
- 3 The issue of, or failure to issue, a section 122 notice by the Board, by virtue of section 124. It is the Board's duty to issue its own notice where the Insolvency Practitioner has failed to do so.
- 3A The issue of a notice validating or not validating an estimate and statement provided by an actuary in relation to a compromise agreement or the failure to issue such a notice.
- 4 The issue of, or failure to issue:
 - a scheme failure notice which states that a pension scheme rescue is not possible; or
 - a withdrawal notice which states that a pension scheme rescue has occurred,

in circumstances where an insolvency practitioner is not required to issue such a notice.
- 5 Any direction issued by the Board during an assessment period in respect of:
 - the investments of a pension scheme's assets;
 - the incurring of expenditure;
 - the instigation or conduct of legal proceedings; and
 - the discharge of money purchase benefits.

This includes any variation or revocation of such a direction.
- 6 The issue of a notice to validate or not validate actions of trustees or managers to, for example, start to wind up an eligible pension scheme, or discharge liabilities during an assessment period.
- 7 Making of a loan or the failure to make a loan or the amount of a loan made to the trustees or managers.
- 8 The failure to obtain an actuarial valuation.

- 9 The approval of, or failure to approve, an actuarial valuation.
- 10 The issue of, or failure to issue, a withdrawal notice because:
 - a pension scheme was not an eligible scheme; or
 - a new pension scheme is created to replace an existing scheme.
- 11 The issue of, or failure to issue a withdrawal notice, because no insolvency event has occurred or is likely to occur in relation to the scheme's employer in circumstances where the insolvency practitioner has been unable to confirm the status of the scheme.
- 12 The issue of, or failure to issue, a determination notice in respect of an application for reconsideration because:
 - the value of scheme assets are less than aggregate of protected liabilities; or
 - the value of scheme assets are greater than aggregate of protected liabilities.
- 13 The issue of, or failure to issue, a determination notice in respect of an application to continue as a closed scheme.
- 14 Any direction given about winding up of a scheme with sufficient assets to meet protected liabilities, and any variation or revocation of such a direction.
- 15 The failure of the Board to give a transfer notice.
- 15a The failure by the Board to obtain an actuarial valuation of the unsecured part of a partially guaranteed scheme.
- 15b The approval of, or failure to approve, an actuarial valuation of the unsecured part of a partially guaranteed scheme.
- 16 Any determination by the Board regarding a person's entitlement to Pension Protection Fund compensation under the provisions of the Act or the failure to make such a determination.
- 17 Any failure by the Board to make a payment of any shortfall in scheme benefits paid during an assessment period.
- 17a The making of a payment in respect of scheme benefits which were unpaid at the start of an assessment period, the amount of any such payment or the failure to make such a payment.
- 18 Any determination made by the Board or failure to make a determination that a scheme is eligible to pay the initial levy or any subsequent pension protection levy that may be imposed.

- 19 The amount of the initial levy or of any subsequent pension protection levy payable in respect of an eligible scheme.
- 20 The making of a fraud compensation payment, the amount of the compensation payment or the failure to make such a payment.
- 21 The issue of, or failure to issue, a notice in relation to a fraud compensation claim because a scheme rescue is not possible or a scheme rescue has occurred.
- 22 The Board's determination of any settlement date in respect of a fraud compensation payment or the failure to determine a settlement date.
- 23 Any determination by the Board regarding the likelihood of further increases in the value of the scheme's assets by way of any further payment to the scheme or the failure to make such a determination.
- 24 The making of a fraud compensation interim payment, the amount of the payment or the failure to make such a payment.
- 25 Any term or condition imposed by the Board relating to the making of a fraud compensation payment or an interim fraud compensation payment, for example the terms of repayment.
- 26 Any determination by the Board that an interim fraud compensation payment was excessive.
- 27 Not in force.
- 28 Not in force.
- 29 Any determination by the Board or failure to make a determination that a scheme is eligible to pay the fraud compensation levy.
- 30 The amount of any fraud compensation levy payable in respect of a scheme.

N.B At time of print this was a comprehensive listing of the reviewable matters contained in Schedule 9 of the Act (as amended). However, Schedule 9 may be subject to further amendment.