



**Pension Protection Fund
How the Pension Protection Fund
Ombudsman can help you**

PENSION PROTECTION FUND – *APPLICATIONS* TO THE PENSION PROTECTION FUND OMBUDSMAN

You can apply to the Pension Protection Fund Ombudsman (the Ombudsman) to look at a matter after it has been considered by the *Board* under the Pension Protection Fund's (PPF) internal procedures.

The Deputy Pension Protection Fund Ombudsman has the same powers as the Ombudsman to consider an *application*. References to the Ombudsman in this booklet should be taken to include the Deputy Pension Protection Fund Ombudsman.

This booklet explains how you can apply to the Ombudsman, what the Ombudsman can do and how he will deal with your *application*. This booklet is meant only as a basic guide to the Ombudsman's services. It does not aim to set out in full all the rules laid down by Parliament as these are complicated. Some of the terms used in the booklet have particular meanings. Where this is the case the words are shown in italics and a glossary is provided at the end of the booklet.

If you need any further help please contact the Ombudsman's office.

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ABOUT THE OMBUDSMAN

1. What can the Ombudsman do?

If you disagree with a decision arising from the PPF's internal procedures you may be able to make an *application* to the Ombudsman. If, after considering your *application*, the Ombudsman decides it is appropriate, he will direct the *Board* to change or replace their decision. The Ombudsman can also, if he thinks fit, direct the *Board* to pay compensation.

The courts can make sure the Ombudsman's determinations are carried out. The Ombudsman is impartial and operates with legal powers. Persons on whom his determination is final and binding include you, the *Board* and any *significantly adversely affected person* unless there is a successful appeal to the courts on a point of law.

2. Who can refer an *application* to the Ombudsman?

Any person who has been sent, or should have been sent, a copy of the *Board's* decision on completion of the PPF's internal procedures may apply to the Ombudsman to consider the decision. Such persons may include:

- members of the pension scheme
- trustees or managers of the pension scheme
- the employer in relation to the pension scheme
- the employer's insolvency practitioner
- the actuary in relation to the pension scheme
- someone who thinks that they may have suffered an *injustice* because of *maladministration*

If you are eligible to make an *application*, you may appoint a representative to assist you. If you appoint a representative we will deal with that person only.

3. What kind of *applications* can the Ombudsman consider?

There are two sorts of decision made under the PPF's internal procedures and the Ombudsman can usually look at either, or both of them. They are:

1. a decision about a *reviewable matter*

If you disagree with a decision about a *reviewable matter* made by the *Reconsideration Committee* on completion of the PPF's internal procedures you can ask the Ombudsman to look into it (a *referral*). For a list of the *reviewable matters* that the *Board* can make decisions about, see Appendix A of this booklet.

2. a decision about a *complaint of maladministration* causing *injustice*

If you are unhappy with the service you have received whilst dealing with the PPF, their internal procedures have not resolved the matter and you think you have suffered *injustice* because of *maladministration*, you can ask the Ombudsman to look at this for you (a *complaint*). Examples of *maladministration* include the *Board* taking too long to act without good reason, or not making or implementing a decision properly. The Ombudsman will decide on the facts of the particular case whether *maladministration* has occurred. If you disagree with a decision reached by the *Board*, that does not necessarily mean that there has been any *maladministration* on their part.

4. What can't the Ombudsman consider?

The Ombudsman will not be able to look at a *referral* unless it has already been considered by the *Reconsideration Committee*. This means it must have been through both stages of the PPF's internal procedures.

The Ombudsman will not be able to consider some *referrals* sent to him more than 28 days of when the *Reconsideration Committee* decision notice was sent.

The Ombudsman will not be able to look at a *complaint* unless it has been considered by the *Board* i.e. it will have been through the first stage of the PPF's internal procedures.

The Ombudsman will not be able to consider an *application* if it has not been made properly. Please carefully read section 5, "When and how can I make an *application*?".



HOW TO MAKE AN *APPLICATION*

5. When and how can I make an *application*?

An *application* to the Ombudsman should be sent within **28 days** beginning with the date on which a notice of the *Reconsideration Committee's* decision was sent. The Ombudsman may in exceptional circumstances extend this 28 day period but for some *referrals* the period cannot be extended.

The Ombudsman will usually expect *complaints* to have been considered by the *Reconsideration Committee* but in some circumstances may look at *complaints* that have not been through this second stage.

The law requires specific information to be provided to the Ombudsman before an *application* can be considered. Your *application* will be properly made if the Ombudsman has the necessary information and it is sent to him in time. Careful completion of the Ombudsman's *application* form should ensure that he has the necessary information. There are two *application* forms, one for a *referral* and one for a *complaint*, with this booklet or you can complete and send the form(s) on-line on the Ombudsman's website, www.ppfombudsman.org.uk. Please remember to sign and date the forms if you are sending them by post.

Please consider carefully whether you need to complete both forms or if only one form is relevant to your case.

You can appoint someone to help you with your *application*. This person will be your representative and there is space on the *application* form for you to appoint them.

6. After my *application* is received

We will write to you to acknowledge your *application*. If the Ombudsman cannot accept your *application* we will tell you why.

Where your *application* is accepted, the Ombudsman will consider and decide what action, if any, the *Board* should take.

Papers provided by you will be copied to the *Board* and will be made available to any *significantly adversely affected person*. There will be an opportunity for comments to be made. Further details of how and when you and others can do this will be provided as the matter progresses.

Where there are similar *applications* to yours or you have made a complaint and a referral, the Ombudsman may decide to deal with them together. If the Ombudsman intends to deal with *applications* in this way he will say so and you, the *Board* and any *significantly adversely affected person* will be given the opportunity to object.

For more information about the rights of *significantly adversely affected persons* in respect of your *application* please see the Ombudsman's website www.ppfombudsman.org.uk.

It will not usually be possible for the Ombudsman to take account of information supplied by you which has not been made available to others. The Ombudsman will also not usually be able to take account of information supplied by others unless it has also been shown to you.

You may ask, in writing, to change or withdraw your *application* at any time.

The Ombudsman will be helped in each *application* by members of his staff and you will be given a point of contact. Those staff will make the necessary enquiries to ensure that the Ombudsman has the facts needed to decide what action, if any, the *Board* should take. These enquiries are usually made by letter or e-mail but we might speak with you (usually by telephone), or with the *Board*, or with anyone else we think can make it clearer what has happened.

When it appears that the relevant facts have been established, a reasoned preliminary opinion will be sent to you and you will have a chance to comment. You will be able to ask the Ombudsman to review the preliminary opinion before a final determination of your *application* is issued. The Ombudsman may ask for further enquiries to be made, otherwise he will let you have his formal determination.

7. Can I see the Ombudsman or his staff ?

In a small number of cases the Ombudsman or his staff may ask to see you or the *Board*, or both. This may be informally or it may be at a formal hearing (an oral hearing).

You, the *Board* and any *significantly adversely affected person* may ask the Ombudsman to hold an oral hearing. Further details of how and when this can be done will be provided. If the Ombudsman decides not to agree to a request for an oral hearing he will give his reasons in writing. The Ombudsman will issue a notice if he decides it is right to hold an oral hearing.

An oral hearing will usually only be held when there is a conflict of evidence which the Ombudsman thinks a hearing will help to resolve. If an oral hearing is held, you, the *Board* and any *significantly adversely affected person* may be heard and represented at the hearing and may bring witnesses.

8. How much will it cost me to use the Ombudsman's services?

There is no charge for using the Ombudsman's services.

The Ombudsman may pay reasonable costs and expenses approved by him beforehand in connection with your or others' attendance at an oral hearing.

Where an oral hearing is held and a person's conduct is unreasonable or vexatious the Ombudsman can direct the person concerned to pay the costs and expenses of others. The Ombudsman would not make such an order without giving the person concerned the opportunity to make representations.

9. How long will it take?

It can take some time to consider your *application*. This may be because of the number of people who have to be contacted or because your *application* is complicated. The Ombudsman may deal with some *referrals* more quickly where they are holding up matters in relation to the PPF.

REMEDIES AND OTHER MATTERS

10. What will happen if my *application* is successful?

If the Ombudsman considers it appropriate he will direct the *Board* to change or replace the earlier decision. The Ombudsman can also direct, if he thinks fit, the *Board* to pay compensation. The Ombudsman's determination will be sent to you and the *Board* and may be posted on his website. Where there are *significantly adversely affected persons* the determination (or its outcome) will always be posted on the website.

Where the Ombudsman has directed the *Board* to take some action, the *Board* should send a copy of their resulting decision to you and any *significantly adversely affected persons*.

11. Confidentiality

Any information made known will usually be shared with you and the *Board* and will usually also be made available to any *significantly adversely affected person*.

Any information obtained during the Ombudsman's consideration process may only be used by you for the purposes of your *application* (or if your *application* has been combined with others, such other *applications*) and should not otherwise be disclosed. The same confidentiality provisions will apply to the *Board* and any *significantly adversely affected person*.

The Ombudsman's formal determinations are public documents and are likely to be published on his website. Except in very few situations, personal information that you or others provide to the Ombudsman (e.g. your name, age, salary, or health details) if relevant to the consideration process will form part of the determination. If you or others do not want this information to be published, you should let the Ombudsman know this (and the reason why) as soon as possible.

12. What if I am unhappy with the Ombudsman's service?

If you wish to complain formally about the Ombudsman's service and have been unable to sort matters out with the person dealing with your *application* or their manager, please write to the Casework Director at the Ombudsman's office.

If you remain unhappy, you can ask your Member of Parliament to refer the matter to the Parliamentary Commissioner for Administration (the Parliamentary Ombudsman). The Parliamentary Ombudsman may review the way that the case was handled but will not consider formal decisions made on your *application*. The Parliamentary Ombudsman's address can be found in section 14 'Other useful addresses'.

13. How to contact the Ombudsman

- The Pension Protection Fund Ombudsman can be contacted at:

The Office of the Pension Protection Fund Ombudsman
11 Belgrave Road
London SW1V 1RB
Telephone: 020 7834 9144
Fax: 020 7821 0065
E-mail: enquiries@ppfombudsman.org.uk
Website: www.ppfombudsman.org.uk

14. Other useful addresses

- *To complain about a government department or agency or the Ombudsman*

Parliamentary Commissioner for Administration
Millbank Tower
Millbank
London SW1P 4QP
Telephone: 0845 015 4033
Website: www.ombudsman.org.uk

- *For complaints about mis-selling of pensions or other financial products*

Financial Ombudsman Service
South Quay Plaza
183 Marsh Wall
London E14 9SR
Telephone: 0845 080 1800
Website: www.financial-ombudsman.org.uk

- *For advice on pensions*

The Pensions Advisory Service (TPAS)
11 Belgrave Road
London SW1V 1RB
Telephone: 0845 601 2923
Website: www.pensionsadvisoryservice.org.uk

- *For state pension scheme enquiries*

Department for Work and Pensions
The Pension Service
Telephone: 0845 606 0265
Website: www.thepensionservice.gov.uk

■ ***For information about Ombudsmen***

British and Irish Ombudsman Association
94 Milner Drive
Twickenham
Middlesex TW2 7PJ
Telephone: 020 8894 9272
E-mail: secretary@bioa.org.uk
Website: www.bioa.org.uk

■ ***For information about appeals from the Financial Assistance Scheme***

The Office of the Pension Protection Fund Ombudsman
11 Belgrave Road
London SW1V 1RB
Telephone: 020 7834 9144
Fax: 020 7821 0065
E-mail: enquiries@ppfombudsman.org.uk
Website: www.ppfombudsman.org.uk

■ ***For information about pension tracing***

Pension Tracing Service
The Pension Service
Tyneview Park
Whitley Road
Newcastle upon Tyne
NE98 1BA
Telephone: 0845 6002 537
Website: www.thepensionservice.gov.uk

■ ***Others***

Financial Assistance Scheme
PO Box 702
York
YO32 9XR
Telephone: 0845 601 9941
Textphone: 0845 601 9942
E-mail: FAS-Operational-Unit@dwp.gsi.gov.uk
Website: www.dwp.gov.uk/fas

The Pensions Regulator
Napier House
Trafalgar Place
Brighton BN1 4DW
Telephone: 0870 606 3636
Website: www.thepensionsregulator.gov.uk

The Pension Protection Fund
Knollys House
17 Addiscombe Road
Croydon
Surrey CR0 6SR
Telephone: 0845 600 2541
Fax: 020 8633 4903
Textphone: 0845 600 2542
E-mail: information@ppf.gsi.gov.uk
Website: www.pensionprotectionfund.org.uk

Citizens Advice
Website: www.citizensadvice.org.uk



APPENDICES

A. reviewable matters

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

- 1 The issue of a notice by the *Board* following a determination approving an insolvency practitioner's notice confirming the status of a scheme.
- 2 The failure of the *Board* to issue a notice following a determination to approve an insolvency practitioner's notice confirming the status of a scheme.
- 3 The *Board's* issue of, or failure to issue, a notice confirming the status of a scheme where the insolvency practitioner has failed to do so.
- 3A The *Board's* issue of, or failure to issue, a notice validating or not validating an estimate and statement provided by an actuary in relation to a compromise agreement.
- 3B The *Board's* provision of, or failure to provide information following receipt of:
 - an Insolvency Practitioner's Notice confirming that an insolvency event has occurred in relation to an employer, or
 - an application from trustees or managers of a scheme for the *Board* to assume responsibility for the scheme because the employer in relation to the scheme is unlikely to continue as a going concern, or
 - a notice from the Pensions Regulator that an employer in relation to a scheme is unlikely to continue as a going concern.
- 4 The *Board's* 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.
- 5 Any direction issued, varied or revoked 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 under a hybrid pension scheme.
- 6 The issue of a notice by the *Board* to validate or not validate actions of trustees or managers in contravention of the restrictions on winding up and discharge of liabilities during an assessment period.
- 7 Making of a loan by the *Board* to the trustees or managers of a scheme to pay scheme benefits, the amount of such a loan or the failure to make such a loan.
- 7A Any determination by the *Board* on a review of an ill health pension that compensation shall be paid as prescribed in regulations.
- 8 The failure by the *Board* to obtain an actuarial valuation when assuming responsibility for a scheme following an insolvency event. The failure by the *Board* to obtain an actuarial valuation when the trustees or managers make an application to or receive a notification from the *Board* in relation to them assuming responsibility following an insolvency event.
- 9 The *Board's* approval of, or failure to approve, an actuarial valuation obtained when assuming responsibility for a scheme following an insolvency event. The *Board's* approval of, or failure to approve, an actuarial valuation obtained when the trustees or managers make an application to or receive a notification from the *Board* in relation to them assuming responsibility following an insolvency event.
- 10 The *Board's* issue of, or failure to issue, a notice refusing to assume responsibility for a scheme (a withdrawal notice) because:
 - the pension scheme was not an eligible scheme; or
 - a new pension scheme is created to replace an existing scheme.

- 11 The *Board's* 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 *Board's* issue of, or failure to issue, a determination notice that they are assuming responsibility for a scheme following reconsideration if they are satisfied that the value of the scheme's assets at the reconsideration time are less than its liabilities.
- 13 The *Board's* issue of, or failure to issue, a determination notice in respect of an application by a scheme's trustees or managers to continue the scheme as a closed scheme.
- 14 Any direction given, varied or revoked by the *Board* relating to the manner of winding up a scheme with sufficient assets to meet protected liabilities.
- 15 The failure by the *Board* to give a notice that they are assuming responsibility for a scheme (a transfer notice).
- 15A The failure by the *Board* to obtain an actuarial valuation of the assets and protected liabilities of the unsecured part of a partially guaranteed scheme.
- 15B The *Board's* approval of, or failure to approve, a valuation of the assets and protected liabilities of the unsecured part of a partially guaranteed scheme.
- 16A Any adjustment made by the Board to recover any excess payments from future compensation payments.
- 16B Any determination by the Board, where it receives a hardship notification, whether to recover overpaid scheme benefits, 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 and/or pay interest on such a shortfall.
- 17A The making of a payment by the *Board* in respect of scheme benefits (not including any transfer payment or refund of contributions) which a person had become entitled to but which were unpaid at the start of an assessment period, the amount of any such payment or the failure to make such a payment.
- 17B Any determination by the Board, where it receives a hardship notification, whether to recover overpaid compensation payments.
- 18 Any determination 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 Any determination by the *Board* of the amount of the initial levy or of any subsequent pension protection levy payable in respect of an eligible scheme.
- 20 The *Board's* making of a fraud compensation payment, the amount of any such payment or the failure to make such a payment.
- 21 The *Board's* issue of, or failure to issue, a notice in relation to a fraud compensation claim where a scheme rescue is not possible or a scheme rescue has occurred.
- 22 Any settlement date determined by the *Board* in respect of a fraud compensation payment or the failure to determine a settlement date.
- 23 In respect of a fraud compensation claim, any determination by the *Board*, or the failure to make such a determination, as to whether a payment received by the trustees or managers of the scheme is to be treated as a recovery of value.

- 24 The making of a fraud compensation interim payment by the *Board*, 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.
- 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 the failure to make a determination, that a scheme is eligible to pay the fraud compensation levy.
- 30 Any determination by the *Board* as to the amount of any fraud compensation levy payable in respect of a scheme.
- 31 Any determination by the *Board*, or failure by the *Board*, to exercise a function of the Pensions Compensation Board conferred on them.

N.B. As at March 2006 this was a complete list of the *reviewable matters* contained in Schedule 9 of the Act (as amended). However, Schedule 9 may be amended further.

B. Glossary

application means a *referral* and/or a *complaint* sent to the Ombudsman (see section 3).

complaint means a *complaint of maladministration* causing *injustice* sent to the Ombudsman.

board means the Board of the Pension Protection Fund.

maladministration has been said to involve 'bias, neglect, inattention, delay, incompetence, ineptitude, perversity, turpitude, arbitrariness and so on'.

injustice means financial loss and may include such things as distress and inconvenience.

reconsideration committee means a committee of the *Board* formed to review and reconsider *reviewable matters* and *complaints of maladministration*.

referral means a decision about a *reviewable matter* sent to the Ombudsman.

reviewable matters means those decisions listed in Appendix A. A list of *reviewable matters* can also be found on the *Board's* website www.pensionprotectionfund.org.uk.

significantly adversely affected person means a person, other than the *Board* or the person making the *application* to the Ombudsman, that the Ombudsman thinks may be significantly adversely affected by his determination. Please see the Ombudsman's website www.ppfombudsman.org.uk for more details.

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