

Ombudsman determination update: duty of care owed by pension scheme administrators/managers - appropriate service levels and guidance on compensation

In the recently published determination of the (then) Deputy Pensions Ombudsman in the Isle of Man (the “**Ombudsman**”) dated 31 October 2018, the complainant was a member of a pension scheme set up under Guernsey trusts (the “**Scheme**”) managed by an Isle of Man manager and administrator (the “**Administrator**”) who complained that, amongst other things, the Administrator had poor service levels, resulting in delays in processing requests and responding to complaints, and failed to provide proper apologies for such delays.

The Ombudsman made the following general remarks in respect of what he considers **sensible to expect in terms of service levels** from a manager/administrator of a pension scheme:

1. Service levels should be in place regulating and monitoring tasks which need to be performed and the performance thereof. Members should however also be conscious that managers/administrators manage various schemes and members and cannot be expected to have immediate turn-round times.
2. Manager/administrators should be pro-active, and members should not have to follow up in order to solicit a response or reaction.
3. Managers/administrators should promptly respond to sensible requests for information and complaints by members, in line with internal procedures, with an intention to resolve the matter.
4. Members should act reasonably and politely and should be able to justify any allegations made in public forums.

In this determination the Administrator acknowledged that 13 working days to process a drawdown request and 5 weeks to resolve a request to take over investment instructions was unacceptable and the Ombudsman directed that this amounted to maladministration resulting in distress and inconvenience. The Administrator did however genuinely consider the complaints, apologise for the delays and offer the complainant compensation in the amount of £665, which the Ombudsman determined was adequate on condition that the apologies provided were **properly worded, unqualified and addressed all the issues raised**.

In respect of **levels of compensation for non-financial loss, distress and inconvenience** caused by maladministration, the Ombudsman noted that the approach of the UK courts is persuasive and can be used as a guide, which confirms generally that awards should be reasonable, that £500 is an average base level award and that awards should generally not exceed £1,000 (£2,000 in more recent cases and guidelines taking into consideration factors such as inflation), other than in exceptional cases of serious injustice where awards have ranged between £4,000 and £5,000.

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