

## Deputy Pensions Ombudsman Determination Update – Key Aspects

Over the course of 2022, we published several articles setting out key aspects from the determinations of the (then) Deputy Pensions Ombudsman in the Isle of Man (the “**Ombudsman**”) to date.

By way of summary we note the following important considerations and themes arising from the determinations:

- Where terms between a scheme provider and member allow for **charges on a time spent basis**, members can request and trustees should provide, an adequate explanation of charges levied to demonstrate that such charges were correctly raised.
- Members should be provided with **sufficient time** to consider suitability of investments or funds, as insufficient time may lead to distress, inconvenience and financial loss of the member.
- Where trustees **change an investment platform**, they would be expected by the Ombudsman to (in accordance with general trust law duties and best practice), amongst other things:
  - o take investment advice on the comparability of the current and proposed new platform and ensure that the funds offered are as equivalent as possible;
  - o provide members with particulars and information of the fund options, as provided by the relevant advisors, and sufficient time to reasonably consider such particulars and take their own advice if necessary; and
  - o ensure where possible that charges for the new fund are not significantly higher than existing charges.
- A manager/administrator of a pension scheme would be expected by the Ombudsman to provide **sensible service levels**, to be **pro-active** and to **promptly respond** to sensible requests for information by members.
- Where mistakes occur in the administration of pension schemes, **co-operation**, investigations, apologies, and steps to remedy such mistakes by scheme trustees would be welcomed by the Ombudsman.
- In order to be successful in a **claim for financial compensation**, an aggrieved applicant would need to prove (1) a negligent misstatement; (2) reliance thereon; and (3) loss. In calculating loss, the Ombudsman will refer to UK case law in terms of which an applicant should be put in the position they would have been in had a negligent misstatement not occurred.
- In respect of **non-financial loss, distress and inconvenience** caused by maladministration, the Ombudsman will also consider the approach of the UK courts when awarding compensation.



For further information or the full determinations published by the Ombudsman, see <https://www.gov.im/categories/benefits-and-financial-support/pensions/isle-of-man-pensions-ombudsman/determinations/>.

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