

Now that the Pensions Ombudsman has determined your case ...

(a guidance note for complainants¹)

The Determination is final and binding on the parties (including you) subject to appeal on a point of law. What this means in practice is described below.

If the Ombudsman has decided in your favour

The Ombudsman will probably have made directions against one or more parties. They now have to comply with those directions unless they successfully appeal against the Ombudsman's decision, or unless, pending an Appeal hearing, the Ombudsman's Determination is stayed by the Court (in Scotland the equivalent term is *sisted*), which effectively means that it is put on hold. As a rule the appellants have to start an Appeal within 28 days of receiving the Determination (14 days in Scotland). If they do, you will know because they have to serve notice of the Appeal on you (see *If there is an Appeal* below).

If there is no Appeal (or if there is one but the Determination has not been stayed or *sisted*) and a party against whom the Ombudsman has made directions has not complied with them, the directions can be enforced. In England and Wales enforcement action is taken in a County Court, the appropriate one being the nearest to the party who has not complied. In Scotland enforcement is through the Court of Session and in Northern Ireland it may be through either the Enforcement of Judgments Office or the County Court, depending on the nature of the Ombudsman's directions to be enforced. If you think that enforcement action is necessary you should contact the investigator in the Ombudsman's office who handled your case.

If there is an Appeal it will be heard in the Chancery Division of the High Court in England and Wales, the Court of Session in Scotland, or the Court of Appeal in Northern Ireland, although there may be considerable delay before this happens. The Ombudsman's directions can still be enforced, unless the Court orders a stay or *sist* (see *If there is no Appeal* above). The Ombudsman may decide to be represented at the Appeal. If he does, then his role will be to assist the Court to come to the right decision. He will not be representing you. You have to decide separately whether you wish to be represented (or appear in person) at the Appeal.² If you are represented (or appear), and the Court decides that the Ombudsman's decision should be changed, then you may have to pay some or all of the costs of the Appeal. If you decide **not** to be represented (or appear) it is not expected that you would be required to pay any of the costs.

Directions in the Determination including payment of interest will refer to "the base rate for the time being quoted by the reference banks". This is published monthly in table 7.1J of "Financial Statistics" by the Office of National Statistics. The base rate is defined under regulation 6 of The Personal and Occupational Pension Schemes (Pensions Ombudsman) Regulations 1996 (No 2475).

If the Ombudsman has not decided in your favour

Because the decision is final and binding the Ombudsman cannot change it himself, except for minor errors (such as typing mistakes). There is no point in writing to him further at this stage. If you want the decision changed you must appeal to the High Court in England or Wales, the Court of Session in Scotland or the Court of Appeal in Northern Ireland. You can only appeal on a point of law. You may want to consult a solicitor if you propose to appeal.²

¹ This note is intended primarily for complainants, but for completeness is usually also sent to the respondent(s) to the complaint.

² You may qualify for Legal Aid. A solicitor or Citizens' Advice Bureau will be able to advise you.