

MEMORANDUM OF UNDERSTANDING
between
THE PENSIONS OMBUDSMAN
and
THE FINANCIAL OMBUDSMAN SERVICE

1. This Memorandum of Understanding is made on the *1st* day of *October* 2002 between the Pensions Ombudsman (PO) 11 Belgrave Road, London, SW1V 1RB and the Financial Ombudsman Service (FOS) of 183 Marsh Wall, London, E14 9SR.
2. This Memorandum sets out arrangements agreed by FOS and the PO for dealing with complaints relating to occupational and personal pensions (including stakeholder pensions) after *1st April 2002*
3. This Memorandum supersedes the Memorandum between the Personal Investment Authority Ombudsman Bureau (PIAOB) and the PO dated 31 March 1995.
4. FOS took over the responsibilities of the PIAOB on 1 December 2001, the date upon which the Financial Services and Markets Act 2000, Part XVI, came into force.
5. Under the Memorandum dated 31 March 1995 it was agreed that PIAOB and subsequently FOS dealt with all complaints concerning personal pensions and the PO dealt with all complaints concerning occupational pensions.
6. This Memorandum has been agreed to take account of the introduction of stakeholder pensions (which may be either occupational or personal pension schemes) and the creation of FOS. The Memorandum also reflects the extension of the PO's jurisdiction from 1 December 2000 to cover employers involvement in personal pension schemes under section 53 of the Child Support, Pensions and Social Security Act 2000.

FOS jurisdiction

7. FOS is the ombudsman scheme provided for under Part XVI of the *Financial Services and Markets Act 2000 (FSMA)* with powers to investigate complaints arising from regulated activities carried on by authorised persons, in prescribed circumstances, and other persons wishing to subscribe to FOS' voluntary jurisdiction.
8. FOS' jurisdiction may include complaints about either personal or occupational pension schemes and their related investments.

PO jurisdiction

9. The PO is a commissioner empowered under Part X of the *Pension Schemes Act 1993* (as amended) to investigate complaints and disputes in relation to occupational or personal pension schemes.
10. Regulation 4(1) of *The Personal and Occupational Pension Schemes (Pensions Ombudsman) Regulations 1996* provides that:

“The Pensions Ombudsman shall not investigate or determine any complaint or dispute which can be (and is in fact) dealt with under the compulsory jurisdiction of the ombudsman scheme provided for by Part 16 of the Financial Services and Markets Act 2000, other than a complaint or dispute relating to the management of a personal pension scheme.”

Division of jurisdiction

11. It is now considered appropriate that
 - (i) FOS should deal with complaints and disputes which predominantly concern the sale and/or marketing of both personal and occupational pensions and their related investments, and

- (ii) the PO should deal with complaints and disputes predominantly concerning the management (after sale or marketing) of both types of pension, and
- (iii) where complaints have circumstances which do not enable the complaints to be placed in either of the above two categories, or where either the PO or FOS is unable to deal with the complaint as categorised, the PO and FOS will immediately take steps to agree how each case will be handled subject to the relevant rules of investigation and the complainant's wishes.

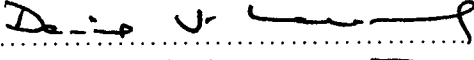
12. Therefore:

- (i) the PO will not investigate complaints referred to the PO which predominantly concern the sale of either occupational or personal pension schemes except where the FOS has advised the complainant or PO that the FOS is unable to or will not investigate the complaint (or such complaints generically), unless this is for the reason that it is frivolous or vexatious or does not have any reasonable prospect of success.
- (ii) FOS will not investigate complaints referred to FOS which predominantly concern the management of either occupational or personal pension schemes except where the PO has advised the complainant or FOS that the PO is unable to or will not investigate the complaint (or such complaints generically), unless this is for the reason that it is frivolous or vexatious or does not have any reasonable prospect of success.


13. Any complaints which appear to have been wrongly directed will be passed to the correct body or OPAS, the pensions advisory service, as appropriate.

14. FOS and the PO will keep this memorandum under regular review to ensure its validity and take into account developments in the regulation of personal pension matters. Assessment of the implications of those developments and the resolution of any potential overlaps will be by joint discussion.

Signed:


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Pensions Ombudsman

Signed:


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Financial Ombudsman Service