

How we investigate complaints

This factsheet tells you what will happen next and gives you some important information about our investigations.

We know that making a complaint can sometimes be stressful and that by the time you come to us you may have been trying to sort things out for some time. So, if you have questions at any stage of the process, feel free to contact us.

In this factsheet we explain:

- ❖ Our approach to investigations
- ❖ What we mean by injustice
- ❖ The investigation process
- ❖ What we mean by determination of a complaint
- ❖ How we will communicate with you during the investigation
- ❖ Sharing of information
- ❖ How we use information about you
- ❖ Confidentiality during an investigation
- ❖ Oral hearings
- ❖ How you can help in the investigation process
- ❖ About The Pensions Ombudsman

Our approach

We are impartial, so we will look at the facts of your case without taking sides. We will establish if something has gone wrong and, if it has, who is at fault. If we find that something has gone wrong, we will decide whether or not you have suffered injustice as a result (see later for what we mean by injustice).

We cannot make the people you have complained about change their working practices generally. Nor can we “fine” or “punish” them. We can only consider whether there has been any injustice to you and, if so, how that can be put right. In doing so, we will take into account what action you took, or could have taken, to avoid or minimise any loss that you suffered.

We have to make decisions that are fair and correct in a legal sense. Sometimes what we decide may not seem fair or adequate to you.

What we mean by injustice

Financial loss

We will decide if you have lost out as a result of anything that has gone wrong. If you have, we will try to put you back into the position you would have been in if everything had been done correctly. Normally we will do this by telling the party at fault to take steps to put the matter right.

Non-financial injustice

We will also consider if you have been affected by what has gone wrong but not financially. For example, you might have been caused significant inconvenience, disappointment or distress. If we think you have been affected, we can tell the party at fault to compensate you for that.

Our usual starting point for awards will be £500 but sometimes higher awards are necessary.

If the non-financial injustice is not significant, no award is likely to be made.

The investigation process

We usually deal with cases in the order in which we receive them. Your case will be allocated to an adjudicator as soon as one becomes available. The adjudicator will contact you shortly after your case has been allocated to introduce themselves. Throughout the investigation process, you will receive regular updates from your case handler at agreed intervals.

We may decide that your complaint is suitable for our Early Resolution Service (ERS). Our Early Resolution Team (ERT) is made up of staff and volunteers. All our volunteers are pension professionals with many years of pension experience. Your caseworker, whether staff or volunteer, will be impartial and will consider the issues without taking sides. They will look to see if they can help resolve your complaint fairly and informally at an early stage, without the need for formal adjudication. You can find more information regarding ERT in our factsheet '[The Early Resolution Service](#)' on our website.

Establishing the facts

When your complaint is allocated to the adjudicator, they will review it. They might ask the people involved in your complaint for more information, or to provide a detailed response to your complaint.

If a case is complex, or there are a number of people involved, the adjudicator may need to request information more than once. Everyone is given time to gather the facts and, in many cases, those new facts are shared with everyone involved. This is one of the reasons why some cases take several months to resolve. On average it takes nine to ten months from receiving a complaint to complete the process. Some cases can be resolved in less time, some can take longer.

Once we have all the information we need, we will go on to make a decision.

Making a decision

In some cases the adjudicator may be able to resolve the problem informally. If all parties can agree on an outcome we will close the case.

Otherwise it is likely that the adjudicator will give you their view on your complaint. Their view might be that nothing has gone wrong in which case they will explain their reasons for saying so. If the adjudicator's view is that something has gone wrong, they will explain their thinking and say what action, if any, the other side should take. Everyone involved in the complaint will have a chance to comment on the adjudicator's view. The adjudicator's view is referred to as an Opinion. Our Opinions are occasionally published on The Pensions Ombudsman's website. For confidentiality purposes, your name is anonymised. The system we use is to refer to you by your title and the last letter of your surname.

In some cases, an Ombudsman will issue their initial view on a complaint. This Preliminary Decision from the Ombudsman will be sent to everyone involved in the complaint and they will be invited to comment.

But, whichever way we deal with your case you, and the other parties involved, can always ask for it to be looked at by an Ombudsman. This will result in the Ombudsman issuing a final decision, or Determination (see later for some information about Determinations).

Determinations published on our website are also anonymised.

What we mean by Determination

This is a decision on a complaint issued by an Ombudsman at the end of an investigation. It is final and binding. This means that we cannot change it, the parties must comply with it and it can be enforced in the courts. The only exception is if one of the parties successfully appeals a determination to the courts on a point of law. We will tell you more about this if your case is determined by an Ombudsman.

Communication during the investigation process

We are happy to talk to you over the phone to answer queries or to explain our position to you. However, we will usually ask you to provide any detailed information in writing. This is to avoid any misunderstandings about the facts and to allow us to send a copy of what you have said to the other parties

If you have told us you would prefer to receive information by email, we will use it as much as possible throughout our investigation into your complaint. The Pensions Ombudsman uses encryption to protect personal information sent by email. Any email we send to you containing personal information will be encrypted and, if you use the secure reply function in our email, your response will automatically be encrypted. We always recommend that you reply to us securely if you are sending us any personal information – for example anything that sets out your name, address or other information from which you could be identified.

We try to ensure that our service is accessible to everyone who uses it. If you need help with your complaint, you could ask someone else to help you or deal with us on your behalf, for example, a friend or family member or an organisation like Citizens Advice. Otherwise, let us know if there are particular ways in which we can make your contact with us easier and, if possible, we will make reasonable adjustments to meet your needs.

Sharing information

Information you share with us during an investigation may have to be shared with others.

We will not withhold information from other people involved in the case. We will not communicate on a “confidential” or “without prejudice” basis.

Personal information

Under the Data Protection Act 2018 we must comply with various duties for any personal information that we hold about you. For example, we must use your information fairly and keep it safely and securely.

By “personal information”, we mean information that is about identifiable living individuals. Your complaint will include a considerable amount of information about you, such as your name, age, workplace or former workplace and possibly your financial affairs and medical history.

When we investigate your complaint you, or others, will probably give us additional information about you. We use this information to help us reach a decision about your complaint and we may need to share information with any individuals or organisations that are involved in dealing with your pension.

By law, we also have the power to share information about your complaint with a small number of other organisations if we think it necessary in helping them carry out their own functions. We will only do this after careful consideration.

We aim to carry out our work openly and transparently and for this reason, we usually publish Ombudsman Determinations on our website. If a Determination of your complaint is published it will not, for confidentiality purposes, include your full name or address. Your name will be anonymised. The system we use is to refer to you by your title, and the last letter of your surname.

Confidentiality

During our investigation, all papers and other information received from us relating to your complaint must be treated as confidential and not disclosed to anyone who is not involved in the complaint. You may only disclose any documents or information you receive to someone that you are taking advice from in connection with your complaint. You should make them aware that they have the same responsibility to keep the information confidential.

If you break these rules regarding confidentiality, you may be found in contempt of court and be subject to penalties imposed by the court (although this would be a last resort).

When the investigation is complete the Determination may be published. If it is published, the Determination will not be confidential but your duty to keep all other papers and information relating to our investigation confidential will not change.

Oral hearings

Any party to a case can ask us to hold an oral hearing. It will be our decision whether or not to hold one. We may decide to have an oral hearing even if we aren't asked.

Generally, we might decide, or agree, to hold a hearing if there is a significant conflict of evidence that can't be decided based on the papers, or if we think that a party may have been dishonest. If you think we should hold an oral hearing for your case you should write to the investigator explaining why.

How you can help

If you are asked for further information, or to comment on a response from the people that you are complaining about, please:

- ❖ be specific and concise – it may be harder for us to pick up on important points in lengthy letters. Please focus on the particular points you disagree with and tell us why.
- ❖ don't repeat any information you have already sent us – we will always look at all the information we have received before issuing a decision.
- ❖ always provide any supporting documents if you have them – send us copies of any documentation that supports your position or confirms the facts of your complaint.

More information about what we do can be found on our website:

www.pensions-ombudsman.org.uk

Complaints about our service

If you wish to raise a complaint about our service this must be brought to us within the following time limits:

- ❖ For cases that conclude **after** 1 April 2021, the service complaint needs to be made within **3 months of the case closing**,
- ❖ For cases that concluded **before** 1 April 2021, the service complaint needs to be made within **6 months of the case closing**.

We will not accept service complaints brought to us outside of this timeframe, unless there is an exceptional circumstance, such as ill health, which prevented you from raising this.

About The Pensions Ombudsman

The Pensions Ombudsman and any Deputy Pensions Ombudsman are appointed by the Secretary of State for Work and Pensions. The Ombudsman's appointment and powers are derived from Part X of the Pension Schemes Act 1993 (or in Northern Ireland, the corresponding legislation, is the Pension Schemes (Northern Ireland) Act 1993).

The Pensions Ombudsman can investigate complaints of injustice due to maladministration or disputes of fact or law referred by members, and dependants of members, of occupational or personal pension schemes. Complaints can be made against the trustees, managers and administrators of the scheme and against the employer in relation to the scheme. (Disputes involving administrators cannot be investigated).

The Pensions Ombudsman can also investigate complaints of maladministration or disputes of fact or law between trustees or managers of different occupational schemes, or between trustees or managers and employers in relation to the same occupational scheme. In some circumstances, disputes between trustees of the same occupational pension scheme or questions referred by a sole trustee can be determined.

The Ombudsman has the same powers as a court in relation to the attendance of witnesses and the production of evidence. Where there is a failure to comply with the Ombudsman's requirements the Ombudsman may certify to the court that the person concerned is in contempt and the court may impose penalties accordingly.

A Determination by the Ombudsman is final and binding on all parties, subject only to appeal on a point of law to the High Court in England and Wales, the Court of Appeal in Northern Ireland or the Court of Session in Scotland. It can be enforced in the County Court (in England and Wales) as if it were a County Court order, and there are similar enforcement provisions applicable in Scotland and Northern Ireland.