

Ethics in Pensions Administration

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Overview - What we do at OPO

- Investigate complaints and disputes
 - Occupational pension schemes, PRSAs and certain RACs under Trust
 - From members, spouses, dependants, former members, etc.
- Order redress for financial loss
- Determine matters of fact or law arising from complaints or disputes

What we can't do

- Compensate for pain, inconvenience or even expense
- Change the rules of the scheme
- Substitute PO decision for decision taken under a discretionary power
- Police compliance with the Pensions Act or the general conduct of the scheme or use powers reserved to Pensions Authority
- Investigate anything that's before a Court
- Equal Treatment

Determinations

- Final and binding on all parties, subject to Appeal to the High Court
- I prefer not to make them
- Mediation or other intervention is faster, and generally better
- If it can be sorted by lifting a phone....

The Future

- Merger with FSOB decided by Government
- Steering Group, both Offices, DPER, DSP and Dept. of Finance
 - Legal issues, Financing, Governance and Staff/Facilities
 - Deadlines....

Ethics

- Acting in ways consistent with what society and individuals typically think of as good values.
- Ethical behaviour involves demonstrating respect for key moral principles that include honesty, fairness, equality, dignity, diversity and individual rights.

Ethical Standards

- Principles that, when followed, promote values such as trust, good behaviour, fairness, and/or kindness.
- Sometimes vague and general, open to interpretation; sometimes very specific
- Often hard to enforce – rely on integrity of individuals
- I only see them when they are not upheld!

Ethics in Pensions

- Can be viewed in the light of obligations of the Parties to a Pension Scheme: Sponsoring Employer; Trustees; Administrators; Providers; Advisors and Members, their duties towards each other and to the scheme

The Employer

- Duty of Care: to members, trustees, administrators etc.
 - To furnish complete and accurate information
 - Utmost good faith (e.g., in completing proposals, declarations etc.)
- Receiving/deducting employee contributions in trust – remittance to the trustees
- Appointment of trustees, advisors, investment managers
- The employer covenant

The Employer - 2

- Conflicts of Interest - different “hats”
- The employer as trustee
- Misuse of the Pension Scheme
 - Self-investment (harder now), misappropriation
- Misleading or incorrect information
- Taking complaints seriously?
- Duty of accurate and truthful communication

The Trustee

- The duty of care – to all members and other actual or potential beneficiaries
- Not to Profit from the trust
- Conflicts of Interest
 - Generally
 - Trustee and connected entities
- Use or misuse of information obtained as a trustee – confidentiality
- Member trustee NOT a representative
- Offering advice?

The Trustee - 2

- Trustee acting unilaterally
- Trustee failure to act
- Duty to invest
 - Ethical Investment? Best interests of Members
 - Do trustees understand investment?
 - Advice independent of Investment Manager?
- Knowledge and awareness of duties
 - Code of conduct
- Utmost good faith in exercise of discretionary powers
- Taking complaints seriously?
- Communication

Providers

- Duty of care to other stakeholders
- Conflicts of interest – how many services?
- Accuracy of information given
- Avoiding delays
- Transparency of charges etc.
- Taking complaints seriously?
- Communication

Advisors

- Duty of care to other stakeholders
- Transparency
 - Corporate structures
 - regulated and unregulated entities
 - Remuneration
 - Conflicts of interest
- Taking complaints seriously?
- Communication

Members

- Accuracy of information provided
- Duty of good faith
- The Member as (co-)trustee
- Clarity around matters such as attitude to risk
- Engagement with the process
 - Asking the questions, seeking reports etc
- Communication is a two-way process
- Taking complaints seriously!!

Common to All

- Need to act in good faith
- Need to deal with Conflicts of Interest
- Duty to provide clear and accurate information