

Transfers

The Pensions Ombudsman's approach

The Pensions Ombudsman only has power to help with some types of complaints about transfers to and from a pension scheme. In certain circumstances, however, the member may be able to pursue the complaint through another Ombudsman scheme.

Transfers into the scheme

The Pensions Ombudsman cannot generally help with complaints made against a financial adviser who advised a member to transfer their pension benefits to a pension scheme.

Complaints sometimes arise when a member is advised to give up a benefit in a defined benefit scheme where the member has a guaranteed income in retirement which lasts for life in return for a transfer payment into a money purchase scheme where the amount of the pension available in retirement depends on the performance of the pension investments (which can go up or down). If the member regrets the decision or the value of the benefits in the money purchase scheme proves a poor investment the member may complain.

If the advice was obtained from an Isle of Man authorised financial adviser on the transfer the member may, however, be able to make a complaint to the Isle of Man Financial Services Ombudsman Scheme if the member can show that poor advice had been given.

If the advice was obtained from a financial adviser authorised in another country, it is sometimes possible to complain to the regulator or to a financial ombudsman scheme in that country if the member considers that the advice was poor.

Transfers out of the scheme – Advice related complaints

The Pensions Ombudsman cannot generally assist with complaints that the financial advice given to a member to transfer out of a final salary occupational pension scheme into an Isle of Man personal pension scheme amounted to poor advice.

If the advice was obtained from an Isle of Man authorised financial adviser the member may, however, be able to make a complaint to the Isle of Man Financial Services Ombudsman Scheme run by the Office of Fair Trading.

Transfers from the scheme – Administrative complaints about delays

There can also sometimes be complaints about the time taken to deal with transfers from Isle of Man pension schemes or the inability of a member to make a transfer to another pension scheme. The statutory requirements for dealing with transfers (including time limits) for domestic authorised schemes can be found in the Pension Schemes Act 1993 (as applied to the Isle of Man) and the accompanying regulations and, in relation to international schemes, in the Retirement Benefit Schemes (International Schemes) Regulations 2001¹. Generally a member of a private sector occupational pension scheme (who is at least one year below his normal pension age) and a member of a personal pension scheme and a member of an international pension scheme with vested benefits, has a statutory right to transfer the cash equivalent value of his vested benefits to another occupational or personal

¹ The Occupational Pension Schemes (Transfer Values) Regulations 1996 and the Personal Pension Schemes (Transfer Values) Regulations 1987 and the Occupational Pension Schemes (Early Leavers: Cash Transfer Sums and Contribution Refunds) Regulations 2006. The Retirement Benefit Schemes (International Schemes) Regulations 2001, regulation 15.

pension scheme that is able and willing to accept a transfer or to transfer to an insurance company for the purposes of providing an annuity. Transfers have to be dealt within certain time limits.

The right to take a transfer from an Isle of Man public sector pension scheme is more limited. There is more information about this in relation to public sector schemes administered by the Public Sector Pensions Authority on the PSPA webpages.

If the Pensions Ombudsman finds that there has been maladministration in processing a transfer request, the Ombudsman may make an award for distress and inconvenience. If the member can demonstrate that they suffered any loss as a result of delays in processing a transfer request, the Pensions Ombudsman may direct that a payment should be made in respect of the loss or that a payment of interest should be made.

There are also some restrictions on transfers under Isle of Man tax requirements which may restrict a member's ability to transfer. Transfers can generally be made from other Isle of Man approved schemes to the new Isle of Man pension freedom scheme subject to a 10% transfer charge. However, it is not possible to transfer benefits directly from a defined benefit scheme approved by the Assessor of Income Tax in the Isle of Man to an Isle of Man pension freedom scheme. Under Isle of Man tax requirements there can also be restrictions on the ability to transfer benefits in Isle of Man approved schemes to non Isle of Man pension schemes and approval of the Assessor of Income Tax may be required in some cases. The Assessor of Income Tax has issued guidance on when transfers are likely to be approved.

Transfers - inaccurate information

If an inaccurate transfer quote is given the member may be able to complain that they have sustained injustice as a consequence of maladministration. However, unless they can demonstrate that they have sustained financial loss in reliance on the inaccurate transfer quote the Pensions Ombudsman would not be able to award compensation for financial loss, only an award for distress and inconvenience sustained as a result of maladministration (Please see the 'misleading or inaccurate information' link on this [webpage](#) for further information).

Complaints about transfers – Example 1

A member applied, having first taken financial advice from her IFA to confirm that a transfer was appropriate, to transfer her benefits from an occupational pension scheme providing defined benefits to a self-directed personal pension scheme in the Isle of Man. In addition to the defined benefits in the scheme the member also had a money purchase additional voluntary contribution fund.

The Scheme administrator then issued a cash equivalent transfer value quote of £210,000 in relation to the final salary benefit. The member applied to take a cash equivalent and was given a Cash Equivalent Transfer Quote in March 2018 with a guarantee date of 31 March 2018.

The member then chased for a response after 8 weeks and then again at 12 and 14 weeks when she had not received a reply. The transfer request coincided with a change of administrator in June 2018.

The new administrator looked into the matter after the receipt of the later chasing letters and established in July that the reason the transfer had not been dealt with was because a request had not been sent by the first administrator to the fund manager of the member's fund to realise the AVC fund following receipt of all the relevant information from the

member at the start of the process. The new administrator gave this instruction to the AVC provider and it then took a further 14 days to implement the transfer request and the transfer was made 16 weeks after the guarantee date.

The administrator apologised for the delay and offered a payment of £500 for the distress and inconvenience caused. The member claimed that if the transfer had been made in a timely manner, she would have been able to invest the money and would have made a 15% return on the investment but was not able to provide any evidence to support this. Also she said that she had incurred bank charges and extra interest as she had not been able to pay off her bank overdraft as a result of the delay in paying over the tax free lump sum which she had intended to use to pay off the overdraft and a loan.

The UK Pensions Ombudsman concluded that, while the length of time to process the transfer was within the 6 month statutory time limit from the guarantee date, there had been maladministration and the administrator had not complied with its duty to take reasonable skill and care in processing the transfer application. If there had been no maladministration, the transfer would have been made much more quickly.

The Pensions Ombudsman concluded that if there had been no maladministration a reasonable time to make the transfer by would have been 8 weeks. The Pensions Ombudsman was not satisfied that if the transfer had been made earlier the member would have made a 15% return as markets had not moved significantly during this period and the member was not able to show on the balance of probabilities that she would have invested the money to deliver this return. The Pensions Ombudsman awarded a small amount of interest to compensate her for the extra bank charges.

In relation to the member's claim for compensation for distress and inconvenience the Ombudsman considered that the payment of £500 sufficiently compensated the member and did not make any further award for distress and inconvenience.

Complaints about transfers – Example 2

A member who was resident on the Island wanted to transfer the cash equivalent value of his benefits in an Isle of Man personal pension scheme to a pension scheme in another jurisdiction, where the member was not going to become resident and it was possible to access the full value of the pension.

The administrator was unable to give effect to this request as under the requirements for making such a transfer would require the approval of the Assessor of Income Tax. Under the Assessor of Income Tax transfer guidance a transfer request is generally refused if the receiving scheme is established in a country which does not tax pension income in full and there is a risk that the fund transferred could be commuted in full.

The administrator offered to put the member directly in touch with the Assessor of Income Tax, but the member did not avail himself of the option.

The Pensions Ombudsman did not uphold the complaint against the administrator in relation to the failure to implement the transfer as the administrator was required to follow guidance from the Assessor of Income Tax otherwise this could prejudice the approval of the pension scheme.