

Investments

Investment decision maker's role varies

The trustees, managers or administrators' duties under Isle of Man law and role in the choice of investments or fund options for members differs depending on the type of pension scheme involved.

In some multi-member occupational or personal pension schemes with money purchase benefits, the trustees may have a wide ranging investment power including a general discretion to determine the range of investment options made available to the pension scheme members to invest contributions in and will keep these options under review. Often the trustees will also specify a default fund into which members contributions are paid if they do not make an active investment choice. Any such discretion must be exercised in accordance with Isle of Man statutory requirements and trust law generally.

In certain types of pension scheme known as self-directed personal pension schemes the role of the trustees in relation to investments is much more limited (as generally the trustees are required to act on member instructions in relation to investments). To work out whether there has been maladministration or breach of law it is necessary to analyse what trust law duties the trustees have. If the pension scheme is designed, as is typical in the case of a self-directed pension plan, to allow members to invest in a very wide range of investments and require the trustees to act on member instructions the investment duties owed by the Trustees/Administrator may be very limited.

If a complaint is made about the manner in which the pension scheme assets have been invested the Pensions Ombudsman will consider whether the trustees or administrator have complied with their investment duties under Isle of Man law.

Ensuring contributions are invested and disinvested promptly and in accordance with member instructions

The trustees, managers and administrators also have a role in ensuring that the contributions are invested and disinvested in accordance with the member's instructions and in a timely manner amongst the investment options made available from time to time in the scheme.

There are statutory requirements in the Isle of Man which can apply relating to the time period trustees/administrators have to invest employee and employer contributions to an occupational or personal pension scheme.

Investment – Example 1

Employer and employee contributions to an occupational pension scheme in the Isle of Man, generally have to be paid over by the due dates specified in the payment schedule and any employee contributions deducted from salary of an employee paid to the trustees within 19 days of deduction from salary.

The contributions were paid over but then not invested for a further 28 days. The member made a complaint that they had lost the investment return on these contributions.

The Pensions Ombudsman determined that this was not a reasonable period for investing the contributions and the delay amounted to maladministration.

The Pensions Ombudsman directed that an additional contribution should be made by the pension scheme to reflect the investment return they would have received if they had been invested within 7 days of receipt which the Pensions Ombudsman considered was a reasonable period for investing the contributions.

Investment – Example 2

A member instructed the trustees/manager of his pension scheme to invest a contribution in a fund.

The contribution was invested in a fund with a similar name by mistake. The member complained that this had resulted in loss as the return on that fund was lower during the relevant period.

The Pensions Ombudsman determined that there had been maladministration and directed that an additional payment should be made to the member's pension scheme to put him in the position he would have been in if the contribution had been made to the correct fund.