

## Isle of Man Pensions Ombudsman and Treasury

### **Privacy and Personal Information Policy**

Under the General Data Protection Regulation (“the GDPR”) the Pensions Ombudsman and the Treasury must comply with various rules in relation to any personal information they holds about you.

The GDPR has been implemented in the Isle of Man using an Order made under the Data Protection Act 2018 which enables the Isle of Man to bring in EU laws relating to data protection.

The Pensions Ombudsman and the Treasury are committed to protecting and respecting your privacy.

This Policy explains when and why we collect personal information about people who seek to use the Pensions Ombudsman service, how we use it, the conditions under which we may disclose it to others and how we keep it secure.

We may change or update this Policy from time to time, so please check this page occasionally to ensure that you are happy with any changes. By using the Pensions Ombudsman service, you are agreeing to be bound by this Policy.

The Pensions Ombudsman is appointed by the Treasury, which under applicable legislation provides certain support functions to the Pensions Ombudsman. Under arrangements agreed with the Treasury any emails sent and received and other data relating to complaints are stored electronically on servers operated by the Isle of Man Government Cabinet Office’s Government Technology Services (GTS) on behalf of the Pensions Ombudsman and the Treasury. For the purposes of the GDPR (as it is applied in the IoM) the Pensions Ombudsman and the Treasury are joint controllers of any personal information held for the purposes of your complaint. A data sharing agreement is in place between the Pensions Ombudsman and the Treasury to ensure compliance with IoM data protection legislation.

This policy has therefore been agreed and issued on behalf of both the Pensions Ombudsman and the Treasury in their capacities as joint controllers of your data.

#### **Who is the Pensions Ombudsman for the Isle of Man?**

The Isle of Man has its own Pensions Ombudsman, who is appointed by the Isle of Man Treasury under provisions contained in the Pension Schemes Act 1993 (as it is applied to the Isle of Man) to investigate various pension-related complaints, including complaints about pension administration and/or disputes of fact and law relating to pension schemes.

Under the Pension Schemes Act 1993 (as it is applied to the Isle of Man) the Treasury also has the power to appoint a Deputy Pensions Ombudsman to assist the Pensions Ombudsman, though currently there is no Deputy Pensions Ombudsman.

Although the Pensions Ombudsman and Deputy Pensions Ombudsman (should there be one) are appointed by the Treasury (see above), the Pensions Ombudsman and Deputy Pensions Ombudsman are statutory office holders who act impartially and independently of the Isle of Man Government when determining any complaint.

## **How to contact us**

Any questions or queries regarding this Policy and our privacy practices should be sent by email to [IOM.PensionsOmbudsman@pensions.im](mailto:IOM.PensionsOmbudsman@pensions.im) or by writing to The Pensions Ombudsman, c/o The Treasury, Social Security Division, 2<sup>nd</sup> floor, Markwell Office, Douglas, Isle of Man IM1 2RZ.

## **What type of personal information do we collect from you?**

By “personal information” we mean information that is about identifiable living individuals. A complaint made to the Pensions Ombudsman will typically include a considerable amount of information about a person, such as their name, age, workplace or former workplace, and possibly their financial affairs and medical history. When we investigate your complaint, you or others will probably give us additional information about you. Unless you provide us with such information as is relevant to your complaint, we may not be able to process the complaint or application.

## **How do we collect the information from or about you?**

We will usually ask any relevant party to provide any detailed information to us in writing or by email. This is to avoid any misunderstandings about the facts and to allow us to send a copy of what has been said to the other party(ies). You should work on the assumption that any communication you send us relating to your complaint may be shared with the person you are making a complaint against, in order that they can comment or respond to any allegations you make. This is generally necessary as the Pensions Ombudsman has to comply with principles of natural justice when determining complaints and accordingly has to give both parties the opportunity to comment on any arguments or representations made by the other in relation to the complaint before finally determining the matter.

Complaints and documents can be sent to us either -

- by post to the following address: Isle of Man Pensions Ombudsman, c/o the Treasury, 1st<sup>nd</sup> floor, Markwell House, Market Street, Douglas, Isle of Man IM1 2RZ (in which case Treasury officers will then scan the documents and send them to the Pensions Ombudsman via the secure Government network);
- by email to the Pensions Ombudsman at [IOM.PensionsOmbudsman@pensions.im](mailto:IOM.PensionsOmbudsman@pensions.im)

When corresponding by email, we are able, if requested, to use a tool to encrypt and password protect emails and attachments when responding to you. To do this we need to give you a password which then enables you to open the encrypted emails and attachments. If you are contacting us about a complaint and would like to encrypt your email and attachments please therefore email us first requesting us to encrypt. The Pensions Ombudsman will then contact you by phone or text to give you a password to open subsequent attachments. To enable us to do this you will need to provide us with your phone number to call you.

In relation to any sensitive personal data (such as information relating to your health, if the complaint relates to an ill-health pension) we would ask you to always send it to us by post or (ideally) via an encrypted or password protected email to ensure data security.

We may also obtain information about you from third parties, such as a pensions administrator that you are complaining about, or other third parties connected with your complaint.

### **How is your information used by us?**

We use this personal information -

- to help you resolve any queries that you have with the trustees or a scheme manager or administrator or sponsoring employer of a scheme at an early stage; or
- for us to reach a decision about a complaint. Incidental to a decision, other uses may include: publishing Pension Ombudsman's decisions; dealing with any appeals or any other legal action concerning such decisions; dealing with any service complaints or carrying out customer satisfaction surveys.

Your personal information will only be used for the purposes for which we collected it, unless we reasonably consider that we need to use it for another reason and that reason is compatible with the original purpose.

We may share your personal information with a third party, such as employers, pension trustees or managers or individuals that you are complaining about, as part of our investigation of your queries or complaints. Generally, you should assume that any information sent to us in relation to a complaint will be copied to the other party to the complaint.

By law, we also have the power to share information about a complaint with a small number of designated persons, including other ombudsman schemes, regulators, public authorities and government departments (as set out in section 149 of the Pension Schemes Act 1993, as it is applied to the Isle of Man), if we think it is necessary to help them carry out their own functions. We will always consider this carefully before doing so.

The Pensions Ombudsman currently has no staff. Under the Pension Schemes Act 1993, the Treasury is able to make available to the Pensions Ombudsman such persons as it has engaged to assist him and such facilities as it thinks fit on such terms and conditions as it thinks fit. The Treasury currently operates a PO Box for the Pensions Ombudsman so that hard copy complaints and correspondence can be sent to the Pensions Ombudsman (and Deputy Pensions Ombudsman, should there be one) and also scans any documents received and sends documents out on behalf of the Pensions Ombudsman. The Treasury also monitors the email inbox of the Pensions Ombudsman and can acknowledge and respond to emails in the Pensions Ombudsman's absence and/or at his direction. The Treasury has also arranged for IT support facilities to be made available to the Pensions Ombudsman so that any email communication can be stored on the Isle of Man Government system. Access to any personal information relating to a complaint on the Isle of Man Government IT system is restricted and information relating to complaints is only used for the purposes of assisting the Pensions Ombudsman/Deputy Pensions Ombudsman in relation to the complaint.

Usually most Pensions Ombudsman decisions are made based solely on evidence provided on paper or by email. However, very occasionally the Pensions Ombudsman may conduct an oral hearing. Generally, under the relevant statutory provisions an oral hearing will be held in public, subject to certain limited exceptions.

## **Publishing our decisions**

We aim to carry out our work openly and transparently and for this reason we usually publish Pensions Ombudsman determinations. In doing so we will normally seek to remove personal data of the applicant unless such data is relevant to understanding the decision or there is another reason why we consider it is appropriate to publish it. We would normally publish the names and details of the respondent to the complaint or dispute.

We need to publish information while maintaining transparency in demonstrating our work and findings and giving guidance to the industry and consumers. This is also consistent with general principles of open justice.

The decision we send to the parties in each complaint will retain the name of the person making the complaint to assist with any appeal or enforcement issues. However, the decision we publish on our website will generally refer to the individual making the complaint by an initial.

In certain cases, we may decide to include the name of the person making the complaint. Examples might be: where the case is a particularly notable one with wider (public interest) implications; where we are taking a position; or where the name of the person making the complaint is relevant to the issue (perhaps a claim to a pension entitlement where the policy cannot be found or has been allocated to someone else).

If we are considering not anonymising a decision - and so including the name of the person making the complaint - or we are asked to do so by a party, we will ask each of the parties for their comments. However, ultimately, it will be a matter for the Pensions Ombudsman/Deputy Pensions Ombudsman to decide on a case-by-case basis.

If you think that there is other material we should edit in the decision in your case before publishing it, you should let us know as soon as possible, giving your reasons. We will not always agree, but will always consider a request very carefully. Given the number of residents in the Isle of Man, anonymising the name of the individual complainant will not always prevent identification.

Exceptionally we might publish a decision in summary form only, while making more information available to anyone who requests it.

## **The legal basis that we rely on for the processing of your personal information**

Our legal basis for processing your personal information will usually be: the exercise of the Ombudsman's statutory function pursuant to Part X of the Pension Schemes Act 1993 (as it is applied to the Isle of Man) (the investigation of complaints into alleged maladministration, and disputes of fact or law, relating to pension schemes) and the Treasury's statutory functions under Part X of the Pension Schemes Act 1993 (as it is applied to the Isle of Man).

Processing may also be necessary for the following reasons:

- for compliance with a legal obligation to which the data controllers are subject;
- for the performance of a task carried out in the public interest, or in exercise of official authority vested in the data controllers;

- for the purposes of the legitimate interests pursued by the data controllers or by a third party, except where those interests are overridden by the interests or fundamental rights and freedoms of the data subject which require the protection of personal data, in particular where the data subject is a child.

On those occasions where we are not relying on any of the above, we will ensure that a suitable alternative legal basis is used, which could (in the case of applicants) include obtaining your explicit consent.

### **How long do we hold your information for?**

We will only retain your personal data for as long as is necessary to fulfil the purposes we collected it for, including for the purposes of satisfying any legal, accounting, or reporting requirement.

To determine the appropriate retention period for personal data we consider: the amount, nature, and sensitivity of the personal data; the potential risk of harm from unauthorised use or disclosure of your personal data; the purposes for which we process your personal data and whether we can achieve those purposes through other means; and the applicable legal requirements.

Generally, our policy would be to not hold your data for more than 3 years from the end of the calendar year in which the complaint or dispute is determined (or the date of last contact in relation to the matter if for example a complaint is discontinued) unless a longer period of retention is considered necessary for the exercise of the Pensions Ombudsman's functions.

Our policy on publication of decisions is to retain them for 20 years. Our policy on retention of published reports on the IoM Government website is to publish them for up to 10 years.

### **Your rights**

You have the right to request access to, and rectification, of your personal data and also erasure of your personal data ("the right to be forgotten"). You also have rights to restrict or object to our processing of your personal information and to request that we send you, or another organisation, certain types of information about you in a format that can be read by a computer (data portability).

That said, due to the nature of the work that we do, we may refuse such requests from you in accordance with relevant legislation. Our overall aim, however, is to be as fair and transparent as possible and we will only refuse such requests where we consider that we are legally justified in doing so.

### **How you can update your information**

The accuracy of your information is important to us. If you change your postal address, email address, or any of the other information we hold about you is inaccurate or out of date, please contact us.

### **Security precautions in place to protect the loss, misuse or alteration of your information**

We know that data security is important to you. When you give us personal information we take steps to ensure that it is stored and processed both physically and electronically in a secure fashion. The majority of the data we hold is processed by the Cabinet Office (specifically Government Technology Services (GTS)) on behalf of the Ombudsman and the Treasury (note: the Cabinet Office is therefore a "data processor"). Cabinet Office (GTS) implements appropriate technical and organisational measures to ensure a level of security appropriate to the risk.

We will notify you and any applicable regulator in the unlikely event of any data breach where we are legally required to do so.

### **What if you are unhappy about the way that we handle your personal information?**

If you have any issues or complaints about the way that we have handled your personal information, please contact us at [IOM.PensionsOmbudsman@pensions.im](mailto:IOM.PensionsOmbudsman@pensions.im). You may also have the right to make a complaint to the Isle of Man Information Commissioner, who can be contacted by email at [www.inforights.im](http://www.inforights.im) or by post at Isle of Man Information Commissioner, PO Box 69, Douglas, Isle of Man, IM99 1EQ. You may also have a right to other remedies.

### **Review of this Policy**

We will keep this Policy under regular review.

Published by the Isle of Man Pensions Ombudsman and Treasury as joint controllers.

March 2022

## General Data Protection Principles

Under Article 5 of the Applied GDPR it is a requirement that the Pensions Ombudsman and the Treasury have agreed in their data sharing agreement that all personal data shall be:-

- (a) processed lawfully, fairly and in a transparent manner in relation to individuals;
- (b) collected for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes: further processing for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes shall not be considered to be incompatible with the initial purposes;
- (c) adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed;
- (d) accurate and, where necessary, kept up to date: taking every reasonable step to ensure that the personal data is accurate; having regard to the purposes for which they are processed and are erased or rectified without delay;
- (e) kept in a form which permits identification of the data subjects for no longer than is necessary for the purposes for which the personal data is processed: personal data may be stored for longer periods insofar as the personal data will be processed solely for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes subject to the implementation of the appropriate technical and organisational measures required by GDPR in order to safeguard the rights and freedoms of individuals; and
- (f) processed in a manner which ensures appropriate security of the personal data, including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures.