**Guidance for dealing with appeals to The Pensions Ombudsman**

**What happens when the Pensions Ombudsman investigates an appeal?**

Full guidance on the Pensions Ombudsman process can be found on their website, which can be accessed by clicking the link below. You are strongly advised to read the full guidance, as below is a brief summary.

<https://www.pensions-ombudsman.org.uk/>

When an appeal is accepted by the Pensions Ombudsman the first stage is for the Ombudsman to write to the parties that have been named on the appeal form. They will usually ask for a formal response to the complaint to be provided within three weeks. However if they believe they can resolve the complaint without this they may not ask for this straight away.

There are three ways that the Pensions Ombudsman will investigate complaints. These are:

* Helping the parties to reach a resolution;
* An Investigator writing a letter called an “opinion” on how the complaint should be resolved;
* The Ombudsman writing a binding legal determination that all parties must follow.

Before the Ombudsman writes a determination they will have spoken with the parties about reaching a resolution or written an Investigator’s opinion. They will proceed with writing a determination if the parties do not accept a resolution or the Investigator’s opinion.

**When can a complaint be made to the Pensions Ombudsman?**

A complaint can only be made to the Pensions Ombudsman once the Internal Dispute Resolution (IDR) procedure has been completed. Please refer to the Employer Pension Guide for guidance on the IDR process. If you receive a complaint from the Pensions Ombudsman and you don’t think the IDR process has been completed, you should speak to Cabinet Office.

**Who will the complaint be against?**

The member can make the complaint against the party that they believe caused the complaint. This could be the employer, Cabinet Office or MyCSP. However the IDR Stage 2 decision will contain the following text to encourage the member to put Cabinet Office on their application form:

# **If you disagree with the decision**

# This letter represents our final response to your complaint. If you disagree with the decision, then you can ask The Pensions Ombudsman to consider your complaint. They offer an impartial and free service and can make legally binding decisions on disputes. TPAS (The Pensions Advisory Service) is also available to help members with any difficulties they have been unable to resolve at any stage of the process.

The contact details are below:

**The Pensions Ombudsman**

11 Belgrave Road

London

SW1V 1RB

Email: enquiries@pensions-ombudsman.org.uk

Phone: 020 7834 9144

**TPAS**

11 Belgrave Road

London

SW1V 1RB

Phone: 0300 123 1047

The Pensions Ombudsman will ask you to complete an application form and tell them who you are making a complaint against. Cabinet Office is responsible for responding to the complaints made to the Pensions Ombudsman, on behalf of employers and MyCSP. So you should put the following details on the form:

**Cabinet Office**

Priestley House, Priestley Road,

Basingstoke

Hants

RG24 9NW

Email: sme-idr2@cabinetoffice.gov.uk

**How will an employer know if a complaint has gone to the Pensions Ombudsman?**

If you are named as a party to the appeal then the Ombudsman will send a copy of the appeal and any supporting documentation direct to your address.

Even if you are not named as a party to the appeal Cabinet Office should still be notified by the Pensions Ombudsman. Cabinet Office will then get in touch with you and send copies of the appeal if you haven’t already received this.

**What should you do if you are notified of an appeal?**

If you are notified of an appeal then you should let Cabinet Office know as soon as possible. You can either contact the person who investigated the Stage 2 IDR complaint or you can email sme-idr2@cabinetoffice.gov.uk. The contact details for the person who completed the Stage 2 IDR investigation will be on the bottom of the letter from Cabinet Office.

When you receive the appeal from the Pensions Ombudsman you should respond and confirm you have sent the appeal to Cabinet Office for a response to be issued. Cabinet Office suggest that you use the wording below:

I can confirm that I have received your letter of…., informing us that the Pensions Ombudsman has accepted a complaint made by [insert member’s name]. This has been sent to Cabinet Office, as it will provide responses on behalf of employers and MyCSP in its role as Scheme Manager. You will receive a response from Cabinet Office by the deadline you have set, and any further questions can be sent directly to Cabinet Office at sme-idr2@cabinetoffice.gov.uk. You will also be given direct contact details for the person handling the appeal at the Cabinet Office, with the response.

**Who will be responding to the Pensions Ombudsman?**

Cabinet Office will take responsibility for responding to appeals from the Pensions Ombudsman. This is because Cabinet Office made the decision at Stage 2 of the IDR process and so are most suitable to respond to the points raised by the Pensions Ombudsman. This is why it’s important that you send the appeal to Cabinet Office as soon as possible if it’s not already been sent to them. When Cabinet Office respond they will tell the Ombudsman that they are responding on your behalf and/or MyCSP, and they will also send you a copy.

Cabinet Office will consult with you before providing a response when the complaint is about your actions or decisions.

Following the initial response the Pensions Ombudsman will get in touch with Cabinet Office to explain how they are proceeding with the investigation. This may be to explain that they are not upholding the complaint and so no further action is required.

However the Pensions Ombudsman may get in touch to explain that they think something has gone wrong, or there are steps that need to be taken to put things right. This could be through informal communication or it may be that an Investigator’s opinion will be sent. Cabinet Office will consult with you again to provide a response.

There are some circumstances when you will be directly affected by the Investigator’s suggestions for a resolution. These can include:

* When the Pensions Ombudsman wants to make directions for the employer to carry out;
* When the Pensions Ombudsman wants the employer to agree to a resolution;
* When the Pensions Ombudsman wants the employer to pay additional compensation for distress and inconvenience.

In these instances you will need to decide if you are following the Investigator’s opinion for how the matter should be put right.

Cabinet Office will liaise with you about providing an answer to the Pensions Ombudsman. If it is agreed that you will follow the Investigator’s directions and you confirm this to Cabinet Office in writing, Cabinet Office can accept this on your behalf so the appeal can be closed. You will then be responsible for carrying out the follow up actions.

**Can the Cabinet Office advise employers about whether to accept directions from the Pensions Ombudsman?**

Your case handler at Cabinet Office can help you by outlining the factors you need to consider in deciding whether to follow the directions. Your case handler can also help by providing you with technical advice on how they have interpreted and applied scheme rules, and give their opinion on whether best practice has been followed.

You will be given the final decision on whether to follow the directions of the Pensions Ombudsman. If you do not wish to follow the Pensions Ombudsman’s directions and Cabinet Office disagrees with your approach then Cabinet Office may ask the Pensions Ombudsman to add you to the complaint so you can respond directly to them about why you do not agree with their approach.

If Cabinet Office thinks you should be accepting the directions then you should carefully consider the implications of disagreeing. If the complaint is escalated and the Pensions Ombudsman writes a determination, it will be legally binding and can only be appealed on a point of law. It will also be published on the Pensions Ombudsman website. Unless there is strong evidence to suggest the findings are wrong, it will be recommended that you accept and carry out any actions the Pensions Ombudsman suggests.