

Pensions & investment litigation hot topic

April 2020

The impact of COVID-19 on member complaints



The impact of COVID-19 is widespread and significant, presenting challenges for trustees and employers in relation to members' benefits. Whilst we would all hope that members will be understanding given the circumstances, there is clearly the potential for a spike in member complaints as a result of the current situation.

We have given some thought to the issues that might arise and set out some practical tips and reminders to help you manage these situations.

- 1 Remember that a 'reasonable period' is fluid** – although many IDRPCs state that a response will be issued within two months, it is important to remember that the legislative requirement is to answer complaints within a 'reasonable period'. Given current circumstances the concept of what is reasonable is likely to be fluid and it seems unlikely that a short delay would result in any criticism or award from the Pensions Ombudsman.
- 2 Keep members informed of timing** – it is vital to be open with members about the realistic timeframe for dealing with complaints and, if the timeframe is likely to extend further, keep the member updated.
- 3 Consider discussing a triaging approach with your administrator** – if members are making complaints that concern benefits that are due to come into payment soon, or statements that are being relied upon for imminent retirement decisions, then these will need to be dealt with as a higher priority than a complaint about retirement figures for a period much further in the future. It is also important to maintain an ongoing dialogue with your administrator to understand the themes of member concerns and issues so that you can manage these proactively.
- 4 Don't just focus on the easiest complaints first** – it may be tempting to deal with the more straightforward complaints at the present time, particularly those around delays. However, it is worth bearing in mind that complaints about substantive issues have the potential to be more significant and/or difficult to deal with but will impact more fundamentally on members, so it is important not to put these on the back burner.
- 5 Manage expectations from the outset** – if you have agreed extended timeframes for certain tasks with a third party.

The impact of COVID-19 on member complaints cont.

What should I do if I experience a spike in complaints?

Consider whether there is merit in adjusting your processes according to the complaint, for example:

1

It is possible that a clear explanation of the rules or the approach that the scheme is taking will deal with the complaint.

Try to address these reasonably quickly to avoid members becoming entrenched in their view.

2

With complex complaints that seem unlikely to be resolved, consider suggesting to the member that the complaint is progressed straight to Stage 2 for consideration by the trustee board.

3

Consider scheduling a trustee call at some point in Q2 or early Q3 to consider any Stage 2 complaints that arise. It will be easier to pacify a member about a delay if there is a clear plan showing that you are proactively managing the situation.

What is TPO's approach?



TPO is currently only focusing on existing complaints and is not opening any new investigations. Whilst this may not extend in the same way to TPO's early resolution team, it would be worth managing the expectations of members that it could take a little more time than usual for the early resolution team to deal with any request for assistance. See the update [here](#).

How can we help?



Our market leading pensions & investment litigation team is experienced in handling cases before TPR, the High Court and TPO.

We advise trustees and employers on all categories of dispute from member complaints right through to appeal court litigation. For a number of clients we act alongside, or effectively as, their in-house disputes team. We provide trustees, employers and pension scheme administration teams with practical training to help them effectively manage errors and member complaints.



For further information, please speak to [Arshad Khan](#), [Peter Murphy](#) or your usual Sackers contact.