



➤ **Summary**

- To be better prepared to deal with complaints, trustees should analyse data to understand which ones are received most often.
- Changes to the pension regulation often lead to an increase in the number of complaints received as trustees take time to adapt to new responsibilities.
- Complaint handling processes must be designed to deal with them quickly and in accordance with the guidance issued by The Pensions Ombudsman.
- The escalation of complaints to court action can cause financial and reputational repercussions for the scheme provider.

As the custodians of retirement savings, pension scheme managers and trustees bear a significant responsibility in ensuring the financial wellbeing and security of their members.

Beyond the traditional roles of investment and portfolio management, they must also navigate the complex terrain of regulatory compliance, risk

Navigating the challenges of pension complaints

➤ **Niamh Smith explores the strategies pension scheme managers and trustees can adopt to adeptly manage complaints, fostering a responsive and effective process to minimise risk**

mitigation and complaint handling.

The effective management of complaints is not only a regulatory necessity, but also an important method of maintaining trust and confidence among plan participants.

To ensure trustees and managers are well-equipped to deal with grievances,

they must fully understand the most common complaints, which risks they must prioritise and the most effective complaint handling procedures.

Common complaints

Gateley Legal pensions partner, Phil Jelley, notes there are many different

avenues members can choose to issue a complaint about their pension scheme, including directly to the provider.

“A dispute may be raised about any matter relating to an occupational pension scheme under the scheme’s internal dispute resolution procedure (IDRP),” he says.

He adds The Pensions Ombudsman (TPO) also exists as an independent organisation that can investigate complaints if the IDRP has concluded without reaching a suitable resolution.

“TPO also operates an informal early resolution service for the resolution of pensions disputes that look resolvable with limited intervention,” he adds.

The latest annual report from TPO confirmed complaints regarding transfer payments were the most numerous in 2022, says Mills & Reeve specialist pensions lawyer, Laura Sayer.

“For example, from members who have requested a transfer payment from the scheme and then have lost that money in a pensions liberation scam,” she says.

She adds TPO also received large numbers of complaints concerning issues relating to the scheme’s rules, for example members challenging a discretionary decision exercised by the trustees or the employer on how they have applied the scheme’s rules.

Zedra client director, Dan Richards, agrees there are many complaints about discretionary decisions exercised by trustees, however these can be easily rectified with effective governance. “These are rare and may be easy to deal with, provided there is a robust audit trail for the decision-making process,” he says.

Jelley says the data from TPO is not surprising because complaints typically go to the core of what is important to a member’s pension provision.

He adds pension scheme managers and trustees can use the data to prepare for complaints and ensure effective systems are put in place to process complaints and satisfy customers.

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Are complaints changing?

Even though TPO’s annual reports revealed the top 10 most common complaints have remained consistent across the previous three years, Richards says the number of complaints has increased as complaint processes have become easier for members to access.

“While these complaints have always been around, I believe that improvements in the speed of communication has made it easier for members to realise that their situation is not acceptable, it’s certainly not unique, and now there’s normally a quick way to get in touch to report it,” he says.

In recent years there has been an increase in member complaints about maladministration relating to unpaid auto-enrolment contributions, due to the introduction of new regulation, says Taylor Wessing pensions senior associate, Afshan Mallik.

“This trend is likely to continue as employers adjust to the increase in employer obligations set out in the Pensions (extension of Automatic Enrolment) Act 2023, if and when regulations are enacted,” she says.

The Pensions Regulator has also

increasingly voiced its concerns around the level of employer compliance with auto-enrolment obligations, she adds.

Nest head of service delivery, Robin Lewis, notes that new regulations can lead to a rise in complaints, as managers and trustees adapt to more responsibilities and obligations.

In particular, he says Nest has seen an increase in complaints concerning transfers since the Occupational and Personal Pension Schemes (Conditions for Transfer) Regulations 2021 came into force in December 2021.

He adds the legislation requires the scheme provider to undertake additional checks when completing a pension transfer, which can lead to delays.

“This is something all providers have had to incorporate into their processes. These additional checks were introduced to ensure that savers are kept safe from pension scams, but they can take some time and this has led to an increase in complaints,” he says.

Effective complaint processes

Sayer says the most straightforward complaints can be dealt with without a formal process being started. However, if this is not possible, the starting point for any member complaint is to use the scheme’s IDRP.

To enhance the effectiveness of this formal process, trustees and managers must provide a timely response to a member’s complaint and any actions taken by the scheme provider, she says.

“Where a qualifying application is made for a dispute to be considered, the trustees or managers must make a decision on the dispute within a reasonable period of time after receiving the complaint, and must notify the applicant of the decision within a reasonable time after the decision on the complaint is made,” she says.

Trustees need to decide whether to have a one- or two-stage IDRP in place as well as identify the decision-maker for stage one if a two-stage IDRP is chosen.



DLA Piper partner, Matthew Swynnerton, advises trustees to adopt a two-stage procedure to enable an effective appeal process and eliminate the need for all complaints to be considered by trustees.

“We would ordinarily recommend a two-stage procedure, to enable the trustees to have multiple opportunities to respond to the complainant before a reference to TPO, and for the stage one decision-maker to be the scheme secretary or a sub-committee of the trustee board, to enable complaints to be handled nimbly and without the need to convene a full trustee board meeting,” he says.

Following the introduction of the Pensions Act 2004, many trustees opted for a two-stage process in the hope the complaint could be rectified by the pensions manager or scheme secretary at the first stage, says Vidett client director and professional trustee, Gillian Graham.

However, many of the UK’s largest professional trustee and pension governance firm’s clients have since decided a one-stage process is more appropriate as it ensures a more streamlined process.

“In most cases, the complaint was rejected so the person making the complaint moved on to the second stage

and positions became entrenched,” she says.

Richards says speed is always of the essence throughout the complaints handling process; the faster trustees and managers deal with a complaint, the faster the risks are minimised.

He adds the trustees should always consider how TPO might view their behaviour, as this helps focus the mind on the right course of action to take. If a member is taken through IDPR, it is not unreasonable to assume it might be escalated to TPO.

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The risks of complaints

Complaints are rarely escalated to legal proceedings because complainants usually accept TPO’s determination. So when escalation does occur, it can catch trustees off guard, Sayer says.

“Trustees may be used to dealing with complaints that go before TPO, but they are likely to be less prepared to deal with complaints that lead to legal proceedings such as High Court litigation,” she says.

Even though legal proceedings related to complaints are uncommon, trustees must ensure it is actively avoided to prevent the risk of expensive repercussions, says Richards.

“Getting into a legal dispute is certainly something to avoid, because the cost of working through the courts could ultimately reduce the security of benefits for all members,” he says.

Lewis adds the risks of court action stretches beyond financial implications through the negative impact on reputation, which is potentially damaging to the sponsoring business.

“Ultimately our priority is always to put things right for our members,” he says. “However, as an organisation, we are also conscious of the risks of not getting this right – this could be anything from legal proceedings, which have an additional cost to Nest, to the potential reputational impact of not appropriately determining a complaint.”

Written by Niamh Smith, a freelance journalist