

ALLEN & OVERY

Top ten tips for managing disputes

1. Don't ignore the dispute

Complaints should be addressed promptly. If a complaint is not properly acknowledged and managed at the outset, this may become a ground for complaint to the Pensions Ombudsman in its own right.

2. Use the IDR procedure

Following the internal dispute resolution procedure not only gives the member the chance to articulate a complaint, but helps trustees to resolve the member's complaint in a structured way.

3. Locate relevant documents

It is important to undertake a thorough search for documents at the outset. This helps assess the strength of the case at an early stage. If relevant documents are missed, you could make the wrong decision in respect of the member's complaint or embark on unnecessary court litigation.

4. Early assessment

Look carefully at the dispute in question and analyse the strengths and weaknesses of the case and your position in relation to that dispute. If you fail to accurately assess the dispute at the outset and as a result change position at a later date, that inconsistency might damage your case.

5. Legal advice

Check with your legal advisers to ensure that you understand all legal aspects correctly. It is also important to take advice before making any admission of liability or otherwise committing to a disadvantageous position.

6. Retain documents

It is important that relevant documents are retained rather than destroyed, so that they can be disclosed if required by the courts and/or the Pensions Ombudsman. Ensure that you comply with data protection requirements.



7. Trustee protection against risk of costs

It's important to know who will bear the costs of any action – particularly if you are considering hostile litigation in the courts, where in some circumstances the court may order a party to bear both sides' costs.

8. Limitation and deadlines

Diarise important dates such as the expiry of any relevant limitation periods and the dates by which certain procedural steps (eg filing of documents in court or issuing of IDRPs decisions) need to be completed.

9. Involve and inform relevant stakeholders

If a complaint involves other parties (eg the employer), notify them about the complaint in case they have relevant information. If the complaint could result in a claim under an insurance policy, notify the insurers about the claim.

10. Consider any wider implications

An individual member complaint could highlight an issue affecting a wider group. If so, you may want the High Court to resolve the matter so the decision binds all members – a decision by the Pensions Ombudsman only binds the parties to a complaint.

For more information on avoiding and managing pensions disputes, please visit our Pensions in Dispute site at www.allenoverly.com/pensionsindispute

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