

THE PENSIONS BRIEF

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Pensions Ombudsman decision on trustee duties when providing information on retirement options

21ST CENTURY TRUSTEESHIP

New guidance added to the Pensions Regulator's 21st century trusteeship web resource

▲ Action required

▲ Follow development and keep under review

Issues affecting all schemes

Pension transfers – trustee duties

The Pensions Ombudsman has decided that a scheme administrator’s failure to send the Pensions Regulator’s “Scorpion” leaflet to a member requesting a transfer, and to carry out proper due diligence checks on a receiving scheme which turned out to be a suspected scam vehicle, amounted to maladministration.

The Ombudsman concluded that, had the administrator provided the member with the “Scorpion” leaflet, and had it acted more diligently, on the balance of probabilities the member would not have proceeded with the transfer. The Ombudsman therefore directed the administrator to reinstate the member’s benefits in the transferring scheme (subject to the administrator having a right to recover from the member any amounts that the member might retrieve from the receiving scheme).

For more information, please see our [legal update](#).

Action

Schemes should ensure that, when processing transfer requests, they consider whether the proposed receiving scheme raises potential “red flags”, and should bring any concerns identified through those checks to the member’s attention and provide appropriate information on the risks of pension scams.

Distribution of death benefits – giving reasons

The Pensions Ombudsman has decided that, although a scheme administrator had taken all relevant factors into account when reaching its decision on distribution of death benefits, its failure to explain its reasons or rationale for its decision amounted to maladministration. The Ombudsman concluded that the absence of any documented reasons to support the administrator’s decision (beyond the list of factors considered) indicated that there were no supportable reasons for the decision.

The Ombudsman added that documented reasons need not be lengthy, but should be sufficient to convey to the reader an understanding of the factors which have been given some weight. It may also be appropriate to record why some factors have been discounted. The reasons should be sufficient to enable an aggrieved party to know whether there are grounds to challenge the decision.

Action

Schemes should be ready to give reasons for the exercise of discretions about payment of death benefits.

Provision of information on retirement options – trustee duties

The Pensions Ombudsman has decided that the failure by a scheme administrator to explain to a terminally ill member that the retirement options available to him, including the associated lump sum and widow's pension, were only available if taken before his death was a breach of the trustees' fiduciary duty to provide the member with all relevant information to enable him make a fully informed decision. The Ombudsman decided that, since the administrator was aware of the member's terminal illness, it should have:

- followed up on the letter sent to the member explaining his options to ensure that he had received it; and
- taken adequate measures to ensure that the member understood the significance of the options outlined in the letter and, in particular, informed the member that if he did not access his benefits before his death, the benefits payable on his death would be significantly lower.

Action

Schemes should take extra care about providing information on retirement options where they know that a member is terminally ill.

21st century trusteeship – new guidance

The Regulator has added guidance on managing conflicts of interest and on meetings and decision-making to its 21st century trusteeship web resource.

Action

No action required, but trustees may find the new guidance helpful.

Mayer Brown events and publications

Upcoming events

If you are interested in attending any of our events, please contact Katherine Carter (kcarter@mayerbrown.com) or your usual Mayer Brown contact. All events take place at our offices at 201 Bishopsgate, London EC2M 3AF.

Trustee Foundation Course

11 September 2018 **FULLY BOOKED**

11 December 2018

Our Foundation Course aims to take trustees through the pensions landscape and the key legal principles relating to DB funding and investment matters, as well as some of the specific issues relating to DC schemes, in a practical and interactive way.

Trustee Building Blocks Classes

13 November 2018 – internal controls and risk management

Our Building Blocks Classes look in more detail at some of the key areas of pension scheme management. They are designed to be taken by trustees who have already taken our Foundation Course.

Annual Pensions Conference

7 November 2018

Our Annual Pensions Conference will address some of the ways in which pension scheme stakeholders can collaborate to achieve good outcomes.

The View from Mayer Brown – UK Pensions Law Podcasts

Every month [Richard Goldstein](#), a partner in our Pensions Group, places a spotlight on key developments that could affect your scheme in a podcast. Just 10-15 minutes long and available on iTunes, the podcasts provide a quick and easy way to stay on top of current issues in pensions law.

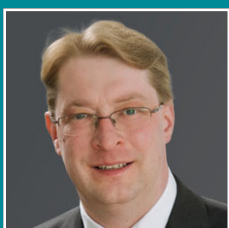
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Please speak to your usual contact in the Pensions Group if you have any questions on any of the issues in this Brief.

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Dates to note over the next 12 months



Key:



Important dates to note



For information

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