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DWP and TPO Consultation: early resolution will speed up ‘unfounded’ disputes

Sacker & Partners LLP (Sackers), the UK’s leading specialist firm for pensions and retirement savings, has responded to the dispute resolution and jurisdiction consultation launched by the Department for Work and Pensions (DWP) and The Pensions Ombudsman (TPO) in December 2018 and closed on 18th January 2019.

The consultation sought views on measures to: make new provisions for dispute resolution by TPO; allow an employer to make a complaint or refer a dispute to TPO on behalf of itself; and make provision in relation to associated signposting provisions. This service would be separate from TPO’s adjudicatory function.

Commenting, James Bingham, Partner at Sackers, said: “As a firm we commend any consultation that seeks to bring about improvement and clarity in our industry, as well as looking to take contributions, opinions and insight from the experts in the field. What stands out in particular within this consultation is that proposed early resolution processes could greatly speed up the procedures for disputes that are more ‘misunderstanding’ than maladministration. We would also suggest that, in some cases, it may be more appropriate for complaints to be considered through this process in the first instance, instead of through a scheme’s IDRPs as the consultation suggests. It would therefore be helpful for trustees to have the ability to transfer a complaint to early resolution.

“Many complaints relate to the operation of scheme rules and members insist that they want trustees to consider such complaints. If a trustee board had the ability to transfer a matter into the early resolution process, even where a member did not want to, this could help to speed up the resolution of many of the complaints trustees receive. Similarly, if a complaint has the potential to be resolved at an early stage, it may be helpful to have any, “without prejudice” discussions with TPO’s advisers involved, although we do not think that details of these discussions should be made available to TPO in cases where early resolution fails.”

Bingham added: “Care should also be taken to ensure that complaints without merit are still dismissed as part of the early resolution process (as was the case under the former TPAS function), and that the early resolution facility does not become a means to apply pressure for paying members off (particularly given the increased quantum of distress and inconvenience awards) on commercial or convenience grounds.”

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Notes to Editors:

Sacker & Partners LLP (Sackers) is a top tier commercial law firm specialising in advising DB and DC pension scheme trustees, employers, providers and corporate investors on all aspects of their pension arrangements.

Widely viewed as leaders in the field, Sackers advises more of the UK's top 200 pension funds than any other law firm. Sackers is consistently ranked in the top tier for pensions by both leading UK legal directories (Chambers UK and the Legal 500) and has been for the last twenty years.

Based in London, Sackers provides support to trustee boards, sponsoring employers, providers and Government bodies across a range of areas, including day to day scheme management, funding and investment, risk and litigation.

Sackers is an active member of the Pensions and Lifetime Savings Association and The Association of Pensions Lawyers and is technical legal expert partner to the Pensions Management Institute and Pension Chair. Sackers also works closely with TPAS, the SPP, APPT and the Pensions Investment Academy.

Sackers was recently named Pension Lawyers of the Year at the 2018 UK Pension Awards.

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