

# Ethics in Pensions Administration

Paul Kenny, Pensions Ombudsman

# Overview - What we do at OPO

- Investigate complaints and disputes
  - Occupational pension schemes, PRSAs and certain RACs under Trust
  - From members, spouses, dependants, former members, etc.
- Order redress for financial loss
- Determine matters of fact or law arising from complaints or disputes

# What we can't do

- Compensate for pain, inconvenience or even expense
- Change the rules of the scheme
- Substitute PO decision for decision taken under a discretionary power
- Police compliance with the Pensions Act or the general conduct of the scheme
- Investigate anything that's before a Court
- Equal Treatment

# Determinations

- Final and binding on all parties, subject to Appeal to the High Court
- I prefer not to make them
- Mediation or other intervention is faster, and generally better
- If it can be sorted by lifting a phone....

# The Future

- Merger with FSOB decided by Government
- Steering Group, both Office, DPER, DSP and Dept. of Finance
  - Legal issues, Financing, Governance and Staff/Facilities
  - Deadlines....

# Ethics in Pensions

- Obligations of the Parties to a Pension Scheme: Sponsoring Employer; Trustees; Administrators; Providers; Advisors and Members, their duties towards each other and to the scheme

# The Employer

- Duty of Care: to members, trustees, administrators etc.
  - To furnish complete and accurate information
  - Utmost good faith ( e.g., in completing proposals, declarations etc.)
- Receiving/deducting employee contributions in trust – remittance to the trustees
- Appointment of trustees, advisors, investment managers
- The employer covenant

# The Employer - 2

- Conflicts of Interest - different “hats”
- The employer as trustee
- Misuse of the Pension Scheme
  - Self-investment (harder now), misappropriation
- Misleading or incorrect information
- Taking complaints seriously?
- Duty of accurate and truthful communication



# The Trustee

- The duty of care – to all members and other actual or potential beneficiaries
- Not to Profit from the trust
- Conflicts of Interest
  - Generally
  - Trustee and connected entities
- Use or misuse of information obtained as a trustee – confidentiality
- Member trustee NOT a representative
- Offering advice?

# The Trustee - 2

- Trustee acting unilaterally
- Trustee failure to act
- Duty to invest
  - Ethical Investment? Best interests of Members
  - Do trustees understand investment?
  - Advice independent of Investment Manager?
- Knowledge and awareness of duties
  - Code of conduct
- Utmost good faith in exercise of discretionary powers
- Taking complaints seriously?
- Communication

# Providers

- Duty of care to other stakeholders
- Conflicts of interest – how many services?
- Accuracy of information given
- Avoiding delays
- Transparency of charges etc.
- Taking complaints seriously?
- Communication

# Advisors

- Duty of care to other stakeholders
- Transparency
  - Corporate structures
  - regulated and unregulated entities
  - Remuneration
  - Conflicts of interest
- Taking complaints seriously?
- Communication

# The Actuary

- Your duty to the public
  - Effectiveness
  - Fairness
  - Integrity and truthfulness
  - Professional standards
  - Conflicts of Interest – disclosure
  - Confidentiality

# Where can the Wheels Come Off?

- Business objectives –v- ethical standards
  - Who's paying your salary?
- Giving testimony – bias
- Valuation – follow guidelines
- “Reasonable projection” – how reasonable ?
- Admitting to mistake – are the PI insurers in control?

# Members

- Accuracy of information provided
- Duty of good faith
- The Member as (co-)trustee
- Clarity around matters such as attitude to risk
- Engagement with the process
  - Asking the questions, seeking reports etc
- Communication is a two-way process
- Taking complaints seriously!!

# Common to All

- Good faith
- Conflicts of Interest
- Clear and accurate information