

Notes from the Pensions Ombudsman – Paul Kenny

Once again, my thanks to the IAPF for this opportunity to update you on what's happening in the field of pensions dispute resolution.

Complaints had been arriving at a fairly steady pace – about one per working day – from October to January, since the “peak” of 39 in September 2003. This peak was attributed to publicity surrounding the official opening of the office and the publication of the new regulations. In February 2004 we received 35 new complaints, which is five for every three working days, and March looks as if it will be much the same.

The publication of our new booklets has also raised awareness. One of these is designed for complainants; one is aimed at trustees of private sector occupational schemes, to explain obligations relating to Internal Disputes Resolution procedures; the last is for Respondents. These can be downloaded from my website, (www.pensionsombudsman.ie). They can also be supplied in hard copy (just e-mail a request to info@pensionsombudsman.ie).

The booklets have been distributed to Public Libraries and to the Citizens' Information Centres run by Comhairle, as well as to Social Welfare offices. Copies have been sent to members of the Oireachtas, and Trades Unions have been invited to apply for supplies for their officials. My staff are also working with staff of the Pensions Board in making presentations about our service in different parts of the country, in conjunction with the Board's Pensions Awareness Campaign. A number of providers of trustee training have been issued with supplies for their trainees.

The complainants' booklet seems to be popular. One local social welfare office, which got 20 copies initially, rang the other day to request a further 50 – they had “sold

out” their initial allocation.

PROGRESS SO FAR

I am pleased to say that some of our cases are nearing determination. By the time this is published, half a dozen or so formal determinations will have been made. I have, as promised, adopted the principle of issuing a “preliminary view” to all concerned in a case, before coming to a final determination. This has allowed parties to make representations or bring in new evidence that they had not previously furnished. I have found it to be a valuable experience. Only in one case was it clear that nothing I – or, apparently, anyone else – could say was going to change the complainant's mind about the rightness of his cause. In most cases, the experience has been positive.

IDR CONCERNS

I had already signalled in the last issue of Irish Pensions that I am concerned about the implementation of Internal Disputes Resolution (IDR) procedures. Events in the meantime have given me no reason to be any happier. The need for IDR procedures was signalled before mid-2002, when the Pensions (Amendment) Act was passed. Prior to the making of my Regulations in September, 2003, it could not have been accurately established what shape an IDR procedure would have to take. And yet, following my appointment, I was saying to anyone who would listen that the intention was to impose as little as possible on schemes and that, if they already had a procedure in place, it was unlikely that they would need to change it.

I now find that complainants who have been referred to their trustees for IDR are coming back, saying that there is going to be a delay in putting procedures in place. In some cases, the need for a Statutory Instrument (S.I.) to give effect to an IDR procedure is cited as an excuse in a public sector scheme.



As far as I am concerned, there is no excuse. Many statutory schemes have changed things on a purely administrative basis in the past, knowing that an S.I. would take time. Private sector schemes have no need for any very elaborate machinery; and the leading consultants and a number of insurance companies have shown willing to hold people's hands in establishing IDR.

Where a complainant is told that no IDR procedure is in place, my advice is to submit the complaint anyway. The three-month deadline for a Notice of Determination will run from the time that full details are supplied by the complainant. If the trustees can't meet that deadline, it is a breach of the Pensions Act and should be dealt with appropriately.

This situation reinforces the possibility that power to take a complaint directly may be required, where IDR has failed, has not been made available or – as is the case with one complaint – where a party involved in the complaint simply refuses to co-operate with the process.

I hope to be able to soon publish my Annual Report for the short year 2003. The number of completed cases won't supply much reading matter, but I shall deal with a few points of principle that have already surfaced during investigations.

Meantime, once again my thanks to those involved in pensions for their courtesy and co-operation and active assistance. Long may it continue!