

Code of practice No. 11  
**Dispute resolution –  
reasonable periods**

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## Introduction

- i. This code of practice is issued by the Pensions Regulator, the body that regulates work-based pension arrangements (occupational pension schemes, stakeholder pension schemes and certain aspects of personal pension schemes which have direct payment arrangements, whereby the employer pays contributions on behalf of the employee).
- ii. The Pensions Regulator's objectives are to protect the benefits of pension scheme members, to reduce the risk of calls on the Pension Protection Fund and to promote the good administration of work-based pension schemes.
- iii. The Pensions Regulator has a number of regulatory tools, including issuing codes of practice, to enable it to meet its statutory objectives. The Pensions Regulator will target its resources on those areas where members' benefits are at greatest risk.

### The status of codes of practice

- iv. Codes of practice are not statements of the law and there is no penalty for failing to comply with them. It is not necessary for all the provisions of a code of practice to be followed in every circumstance. Any alternative approach to that appearing in the code of practice will nevertheless need to meet the underlying legal requirements, and a penalty may be imposed if these requirements are not met. When determining whether the legal requirements have been met, a court or tribunal must take any relevant codes of practice into account.

### Purpose of this code of practice

- v. This code of practice provides practical examples on the Pensions Regulator's expectation of the reasonable time periods stated in the legislation related to dispute resolution.
- vi. It does not cover what trustees or managers need to put into their own dispute resolution procedure or stipulate what information trustees or managers should receive from applicants to enable them to reach a decision on a matter. The legislation provides the flexibility for trustees or managers to decide what is appropriate for their scheme.

### Who does this code of practice apply to?

- vii. This code of practice applies to trustees or managers of occupational pension schemes and trust based stakeholder schemes, and to the

'specified person'<sup>1</sup> making a decision in a two-stage dispute resolution procedure. It will also be of interest to pensions practitioners in general.

This code does not apply to:

- schemes in which all the members are trustees;
- schemes with no more than one member;
- schemes where the sole trustee is a company and all members of the scheme are directors that company; or
- such other disputes as exempted by regulations<sup>2</sup> (broadly related to certain schemes which apply to police and firefighters).

## Other relevant codes

- viii. Users of this code are likely to find the Pensions Regulator's codes on 'Reporting breaches' and 'Trustee knowledge and understanding' relevant.

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<sup>1</sup> See section 50(4A) of the Pensions Act 1995 as amended

<sup>2</sup> See regulation 4 of the Occupational Pension Schemes (Internal Dispute Resolution Procedures Consequential and Miscellaneous Amendments) Regulations 2008.

## The code of practice

In this code of practice, references to the law that applies in Great Britain should be taken to include corresponding legislation in Northern Ireland; an annex lists the corresponding references.

### The legal requirement to have a dispute resolution procedure in place

1. Trustees or managers of occupational and trust-based stakeholder pension schemes must ensure that they have a procedure in place to enable any person with an interest in the scheme<sup>3</sup> to make an application to them for a decision on a matter in dispute.
2. The requirements for dispute resolution arrangements can be found in the following:
  - Sections 50, 50A and 50B of the Pensions Act 1995, as inserted by section 273 of the Pensions Act 2004 (as amended).
  - The Occupational Pension Schemes (Internal Dispute Resolution Procedures Consequential and Miscellaneous Amendments) Regulations 2008.
3. The law allows trustees or managers to operate a two-stage procedure with a 'specified person' undertaking the first-stage decision or adopt a simpler single-stage process if that is more appropriate for their scheme.
4. With the exception of certain matters (mainly outlined below), the law does not prescribe the detail of the dispute resolution procedure. That is for the trustees or managers to decide.
5. Trustees or managers of a scheme may include in their procedure a time limit within which applications for the resolution of a dispute should normally be made. However, where an application is made by certain persons with an interest in the scheme (broadly those who have ceased, or claim to have ceased, to be a member of the scheme, beneficiary of the scheme, or prospective member of the scheme)<sup>4</sup> the procedure must include a provision stating that the application must be made before the end of a **specified reasonable period**.

<sup>3</sup> See section 50A(1) of the Pensions Act 1995 as amended.

<sup>4</sup> As defined by sections 50(A)(1)(e) or (f) of the Pensions Act 1995 as amended.

6. When an application is made for a dispute to be considered, the trustees or managers must:
  - make a decision on the matter in dispute within a **reasonable time** period of them having received the application; and
  - notify the applicant of the decision within a **reasonable time** period following the making of the decision.
7. In the case of a two-stage dispute resolution procedure, the reasonable periods for making a decision and notifying the applicant also apply to a decision made by the 'specified person'. They apply to each stage of a two-stage procedure separately. Where a dispute is referred to the trustees or managers for a second-stage decision the reasonable period for making a decision begins when the trustees or managers receive the referral.

### The specified reasonable period

8. The specified reasonable period within which an application from certain persons with an interest in the scheme<sup>5</sup> must be made is the end of the period of **six months** beginning immediately after the date on which he ceased to be, or claims he ceased to be, a person with an interest in the scheme.
9. Trustees or managers may agree to accept an application for a dispute received outside the specified reasonable period. This may be where the person with an interest in the scheme could not have reasonably known about the matter in dispute within the six months (this is particularly the case where disclosure of information to members has been poor) or for exceptional reasons such as incapacity.
10. However, the Pensions Regulator would not normally expect an application received within the specified reasonable period to be refused.

### The reasonable time periods

11. The Pensions Regulator expects that a decision will be made on a dispute within **four months**<sup>6</sup> of receiving the application.
12. Applicants should be notified of the decision usually no later than **15 working days**<sup>7</sup> after the decision has been made.
13. Trustees or managers may choose to adopt a procedure with shorter decision and notification times if they wish. For example if they want to

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<sup>5</sup> As defined in sections 50A(1)(e) and (f) of the Pensions Act 1995 as amended.

<sup>6</sup> Where referred to in this document, "month" means calendar month.

<sup>7</sup> Where referred to in this document, "working day" means any day except, Saturday, Sunday, and bank holidays including Christmas Day and Good Friday.

continue to operate a two-stage procedure in accordance with the time limits prescribed under previous legislation<sup>8</sup>.

14. The Pensions Regulator recognises that the circumstances of each dispute are different. For example, in some cases it will be possible to respond to an application sooner than the reasonable time given. Where this is the case we would not expect there to be a delay in giving the decision to the end of the reasonable period.
15. We also recognise that the circumstances of a particular dispute may mean that it is not possible to complete the procedure within the timeframes outlined in this code of practice. For instance, where the dispute involves unusually complex and labour intensive calculations or research, or delays occur that are outside the control of the trustees or managers (or 'specified person'), for example because they need to obtain medical evidence.
16. Trustees or managers must be happy that the time taken to provide a decision is appropriate to the situation and that the necessary action has been taken to try and meet the reasonable time periods. The Pensions Regulator may call upon trustees or managers to demonstrate the propriety of the time taken.

## Statutory schemes

17. This code of practice also applies to public service schemes.

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<sup>8</sup> The Occupational Pension Schemes (Internal Dispute Resolution Procedures) Regulations 1996 (repealed).

## Annex – Corresponding Northern Ireland legislation

GB Legislative reference	NI Legislative reference
<p>The Pensions Act 1995 (c. 26)</p> <p>(as amended by section 273 of the Pensions Act 2004)</p>	<p>The Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22))</p> <p>(as amended by Article 250 of the Pensions (Northern Ireland) Order 2005)</p>
Section 50	Article 50
Section 50A	Article 50A
Section. 50B	Article 50B
<p>The Pensions Act 2004 (c.35)</p>	<p>The Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1))</p>
Section 90	Article 85
<p>The Occupational Pension Schemes (Internal Dispute Resolution Procedures Consequential and Miscellaneous Amendments) Regulations 2008 (S.I. 2008/649)</p>	<p>The Occupational Pension Schemes (Internal Dispute Resolution Procedures) (Consequential and Miscellaneous Amendments) Regulations (Northern Ireland) 2008 (S.R. 2008 No. 116)</p>