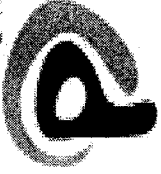


Pensions
OMBUDSMAN



Office of the Pensions Ombudsman

Presentation to

APLI and IIPM

30 November, 2005

Why is there a Pensions Ombudsman?

- To fill a gap in the Pensions Act: Board can investigate, prosecute, but not order redress
- SO:
 - To investigate complaints of maladministration in relation to pension schemes and PRSAs
 - To award redress in case of financial loss
 - To decide matters of fact or law
 - Maladministration and non-compliance are not always the same thing

The legal angle

- Determinations are binding on all parties
- Can be enforced by Order of the Circuit Court
- May be appealed to the High Court

Sources of Complaints, 2004

- Public Sector, 47%
 - But some may be generic
- Private Sector, 53%
- PRSAs – NIL
- Total complaints, 2004: 298.
- At 28 November, 2005: 366

Main Types, 2004

- OTOR: 50/17%
 - Referral to Ombudsman, Regulator
- Post-retirement increases / Parity: 50/17%
- Failure of scheme to respond: 29/10%
- Membership/Entry Conditions: 23/ 8%
- Calculation of Benefits: 17/ 6%
- Failure to remit contributions: 17/ 6%

Results, 2004

Final Determination - Complaint Upheld	15	4%
Final Determination - Complaint Not Upheld	34	10%
“Successful” Mediation	84	25%
“Unsuccessful” Mediation	50	15%

Compliance with Pensions Act

- Most trustees and employers comply with most of the Act
- Most Common failure is in disclosure of information
- Worst failure is in remittance of contributions
 - S. 58A requires employers to remit all contributions (DC) or employee contributions (DB) within 21 days of month end
 - Confirm remittance, e.g., on payslip
 - Extra disclosure in new Regulations
- Theft of contributions



Disclosure of Information

- Merely to adhere to the Disclosure Requirements does not represent high quality communication
- Quantity -v- Quality
- Regulation and supervision – small print
 - Legally correct but incomprehensible
 - What’s wrong with English?

Theft - CFOPS examples

- Some employers deduct contributions and do not remit them.
- This is theft
- Not picked up by Auditors
- Often not discovered until company dissolved
- Limited protection under Company law and Employment law
- Whistle blowing requirements apply to pension scheme audits, not company audits
- Determinations against individuals, report to Director of Corporate Enforcement, Pensions Board

Learning from Experience – some recent issues

- “Office Holders” – taxed under PAYE, PRSI @A1- not “excluded employees” for PRSAs
- Minimum Incremental Premiums
 - Small print issue, Regulator involved
- CFOPS arrears – liability – Accounting Bodies
- Late withdrawal of Complaint
- Public Service – treatment of Opters-out
- Misuse of Section 48 of the Pensions Act