



Mr Donal De Barra  
Kildimo  
Miltown Malbay  
Co Clare

22 December 2015

**Our ref: PO 151222327**

Re: Hunter Advertising Pension Scheme

Dear Mr De Barra

1  
I refer to the complaint form dated 13 December 2015 that you submitted to this Office concerning the Hunter Advertising Pension Scheme and your associated letter and supporting documentation.

2  
The statement within quotation marks in paragraph 5.15 of the Final Determination that the Pensions Ombudsman issued in relation to your previous complaint is a quotation from correspondence from Mercer. It is not a statement from the Pensions Ombudsman.

3  
The trustees divested themselves of all responsibility for the Hunter Advertising Pension Scheme when they wound up the scheme in 2007. The trustees should have informed you of their intention to wind up the scheme and you should have been included in the distribution of scheme assets at the time of the wind up but because of the maladministration on the part of Friends First you were not included.

4  
Irish Pensions Trust (IPT) was the trustee and the administrator of the Hunter Advertising Defined Contribution Pension Scheme although administration duties were shared with the scheme provider, Royal Life. When the Hunter Advertising Defined Benefit Scheme was set up in 1983 Friends First (then Friends Provident) was appointed administrator of the defined benefit scheme. In 1998 Mercer assumed

control of the administrative duties that had been undertaken by IPT previously. IPT remained trustee of both the defined benefit scheme and the defined contribution scheme.

Also in 1998 the assets of the defined contribution scheme, including your benefit, transferred to the defined benefit scheme and Royal Life no longer had any administrative responsibility in relation to any Hunter Advertising Pension Scheme assets. From this time responsibility for administering the defined benefit and defined contribution assets of the scheme lay with Friends First and Mercer.

IPT was the only trustee of the Hunter Advertising Pension Scheme from its commencement until it was wound up in 2007.

Under Disclosure of Information Regulations scheme trustees have a statutory obligation to make scheme documentation (including the Trust Deed and Rules) available to members on request. However, that obligation no longer applies after a scheme has been wound up. I can see no reason why the former trustees would not provide you with access to the documents but the Office of the Pensions Ombudsman is not in a position to compel them to provide the necessary access when it is not forthcoming. In the circumstances, as an exceptional matter, the Office of the Pensions Ombudsman has decided to forward a copy of the Trust Deed and Rules that is on file.

The issue of a Final Determination of the Pensions Ombudsman represents concluding action of the Office of the Pensions Ombudsman in relation to a complaint that has been investigated by the Office unless the Final Determination is appealed to the High Court. I am not aware of any appeal to High Court regarding the Final Determination that the Pensions Ombudsman issued in relation to your previous complaint. The Office of the Pensions Ombudsman will not carry out an audit of the options that might be made available to you by Friends First on foot of the Determination of the Pensions Ombudsman. In the absence of an appeal to the High Court the matter is closed as far as this Office is concerned and no further action will be taken by this Office in relation your previous complaint.

If a party to a complaint or dispute fails or refuses to comply with a Determination of the Pensions Ombudsman, the Circuit Court may make an order directing that the



party implement the terms of the Determination. Such an order may be applied for by the other party (usually the complainant). The relevant section of the Pensions Act 1990 (as amended) is Section 141. Because of the wording of this section and the fact that a complaint case is personal to the complainant, the Pensions Ombudsman is advised that, in the first instance, the onus is on the party concerned to seek to have the Determination enforced through the courts, as this is a relatively straightforward legal procedure.

While the Act also provides that the Pensions Ombudsman may apply to the Circuit Court for an order requiring that his Determination be implemented if he is of opinion that it is appropriate to do so having regard to all the circumstances, it is very rare for the Pensions Ombudsman to seek such an order and before doing so the Pensions Ombudsman will require a written submission from the party concerned, setting out in detail why that party cannot proceed with enforcement in their own right.

The complaint form dated 13 December 2015 that you submitted to this Office refers to the failure of the trustees to provide you with a copy of the Trust Deed and Rules. The enclosed copy of the rules will address the issue raised by you so the matter is closed as far as the Office of the Pensions Ombudsman is concerned and no further action in relation to the complaint will be undertaken.

If you feel the need to discuss the contents of this letter then you can contact me at Dublin (01) 6470031

Yours sincerely,

John Sheehan

Investigator

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