

Kildimo,  
Miltown Malbay,  
Co. Clare

8<sup>th</sup> January 2016

To Paul Kenny,  
Pensions Ombudsman

Your ref. P.O.151222327 and PO 140319890

Dear Mr. Kenny,  
Re Hunter Advertising Pension Scheme

Dear Mr. Kenny

I refer to your letter of 22 December, signed by John Sheehan.

In response to my letter of 16<sup>th</sup> December as to how IPT [as trustees and administrators] divested themselves of responsibility for the scheme without informing me, Para. 3 of this letter states "The trustees should have informed you of their intention to wind up the scheme and you should have been included in the distribution of the assets at the time of the wind up but because of the maladministration on the part of Friends First you were not included."

It appears to me that there must also have been maladministration, if not culpable negligence, on the part of IPT, and that this 'maladministration' could render void any claimed divestiture of their trusteeship or winding-up of the scheme and make them, in addition to Friends First, liable for any benefits due to me. I am requesting you to make a ruling on this point.

Regarding paragraph 7 of your letter my contention as above, is that the wind-up of the scheme was invalid, for the reasons I have already stated, and that you could make an order to this effect and a determination as to the responsibility of IPT to issue the documentation concerned, and possibly a further finding of maladministration. Unauthenticated copies of the documentation do not meet my requirements, as such could not, of course be used in any legal proceedings.

Your letter of 22 December makes no reference to para 6 of my letter of 16<sup>th</sup> December. I wish to know by what legal authority you believe you can transfer your judicial capacity as Pensions Ombudsman to Friends First, they being protagonists in the dispute. In this connection I note that in your letter of 20<sup>th</sup> June 2014 you said that "we will therefore have to determine what was the investment return on the transfer value that represents your benefits" and that you seem to have now abandoned this responsibility. Your determination also leaves it for Friends First, as protagonists to decide whether the scheme is 'defined benefit' or 'defined contribution'.

Given that you appear to be uninterested in what, if any, amount Friends First decide upon (to date they seem to have ignored your ruling!) perhaps you might also like to suggest what course of appeal might

be available to me against any decisions they (as opposed to you, as Pensions Ombudsman) might finally make ?

Further, in your letter of 20 June 2014 you point to the likelihood that other employees of Hunter Advertising (from the same period) may have been deprived of benefits in the same way as I have, but your 'Final Determination' merely recommends that Mercer and Friends First, themselves investigate this, notwithstanding the utter incompetence and careless disregard that they have shown in the matter to date. These are the people who, as you noted in your letter of 20 June 2014, rely on the memory of individual employees to track the entitlements of (would be!) scheme beneficiaries. This to my mind is not just 'maladministration', it is culpable incompetence, severely compounded by their current intransigence.

Further, your letter of 20<sup>th</sup> June 2014, having identified serious maladministration, did not bring to my attention the limitations of your office and notify me that by proceeding on the course you proposed I was placing in jeopardy any rights to obtain personal compensation for this maladministration and the likelihood that I would end up having to engage legal assistance. Nor was I made aware at any stage, (your letter of 17 February 2015 notwithstanding) that you might fail to make a definitive award and that you would not feel obliged to compel enforcement of any decision you might make.

I look forward to your response to these points at your earliest convenience.

Yours,

Donal De Barra (alias Barry)