

FINANCIAL ASSISTANCE SCHEME (FAS) APPEALS

INTERESTED PERSONS WHO ARE NOT TREATED AS PARTIES TO THE APPEAL

Guidance note

This guidance note should be read in conjunction with the application form for interested persons and the Pension Protection Fund (PPF) Ombudsman's website: www.ppfombudsman.org.uk.

For the meaning of terms in italics see the glossary at the end of this guidance note.

Who is an interested person?

For *scheme notification decisions* or *scheme eligibility decisions* you are an interested person if you are entitled to apply for a review of the decision i.e. you can appeal to the PPF Ombudsman. Such persons will be the *trustees* or *managers* of the pension scheme (if any) and include a person who is receiving or may receive benefits under the pension scheme in or after wind-up. If you are not sure whether you are an interested person, please see "I think I am an interested person..." below.

Whilst you may be an interested person in relation to an appeal to the PPF Ombudsman it does not follow that you would receive an award under the FAS. The criteria used by the *scheme manager* to determine whether you are eligible for an award, for example your age will be relevant, is not the same as that used by the PPF Ombudsman to determine whether you are an interested person. For more details see the Appeals sections on the Pension Protection Fund's website (www.pensionprotectionfund.org.uk/FAS/Pages/Fas.aspx).

What types of appeal can an interested person take part in?

The PPF Ombudsman can only allow interested persons to join in an appeal if the appeal is about

- a *scheme notification decision*, or
- a *scheme eligibility decision*.

How to find out information about a current appeal concerning a scheme notification decision or a scheme eligibility decision

Details of appeals received by the PPF Ombudsman, about *scheme notification decisions* and *scheme eligibility decisions*, are available to view on the Current Referrals, Complaints and Appeals section of the PPF Ombudsman's website. The details include the date on which each appeal was first publicised and the dates of any proposed merger or other similar appeals or scheduled oral hearings. These dates are important because of the strict time limits applying to people wishing to take part in an appeal as an interested person.

Details about an appeal's progress will be publicised on the PPF Ombudsman's website to keep you informed. Therefore, you do not need to take part in an appeal. You should be aware that the greater the number of interested persons taking part in an appeal the less quickly it is likely to be determined.

If the pension scheme has not been wound up, the *trustees* or *managers* will always be a party to the appeal even if they have not made the appeal themselves. The PPF Ombudsman expects that they will help to drive the appeal forward, and he intends to make use of their experience and expertise.

I think I am an interested person and I wish to take part in the appeal – what should I do?

If you want to take part in the appeal, the PPF Ombudsman will decide whether you are an interested person. The law requires you to provide specific information to the PPF Ombudsman. Careful completion of the application form with this guidance note should ensure he has the necessary information to make his decision.

When the PPF Ombudsman receives your application to take part (together with your claim that you are an interested person), he will write to let you know whether he agrees that you are an interested person. He may ask you for further information before giving his decision.

If the PPF Ombudsman decides that you are not an interested person in relation to the appeal in question, you may take no further part in the appeal. If you apply after the time limits (see below) have expired, you may not be allowed to join in the appeal.

I wish to take part in the appeal, what time limits do I need to be aware of?

A. You want to make written representations about an appeal

If you wish to send a written statement of your views about an appeal to the PPF Ombudsman, you must do so within **28 days** of the PPF Ombudsman publicising the appeal. You will find this date on our website (see Current Referrals, Complaints and Appeals on the menu bar). However, if you have already made a request for an oral hearing or an objection about a proposed merger, your written representations must be

made within **28 days** of the PPF Ombudsman publicising the appeal or, if later, within **14 days** of when you were told you were an interested person.

B. You want to request an oral hearing

You must make your request to the PPF Ombudsman within **28 days** of the date on which the PPF Ombudsman publicises the appeal on his website. You will find the date of the notice of the appeal listed on the PPF Ombudsman's website (see Current Referrals, Complaints and Appeals on the menu bar). However, if you have already made written representations about the appeal or an objection about a proposed merger, your request must be made within **28 days** of the PPF Ombudsman publicising the appeal or, if later, within **14 days** of when you were told you were an interested person.

C. You want to make oral representations at the hearing or send written representations for the purpose of the hearing

If you would like to make oral representations at a hearing or send written representations for the purpose of the hearing you must write to the PPF Ombudsman no later than **21 days** before the date of the hearing with a summary of your evidence and any written representations. (If you are treated as a *party* this time limit changes to **14 days**.)

By this time, you should also let the PPF Ombudsman know the names of any witnesses you intend calling and provide a summary of their evidence.

You will find the date of the hearing listed in the details of oral hearings on the PPF Ombudsman's website (see Current Referrals, Complaints and Appeals on the menu bar).

D. You want to object to a proposal to combine appeals

If the PPF Ombudsman receives similar appeals from more than one person against a *scheme notification decision* or a *scheme eligibility decision*, he may decide to deal with them together (with one determination relating to all the appeals or one or more of the appeals being a representative of them all). The PPF Ombudsman will publicise his intention to combine appeals in order to give people an opportunity to object. If you wish to object to a proposal by the PPF Ombudsman to combine appeals, you must do so no later than **28 days** beginning with the date on which the PPF Ombudsman publicises the proposal on his website. You will find this date listed on the PPF Ombudsman's website (see Current Referrals, Complaints and Appeals on the menu bar).

If you do not comply with the time limits set out above, you may not be allowed to take part in the appeal.

What happens after the PPF Ombudsman makes his decision?

If the PPF Ombudsman is satisfied that you are an interested person you will be allowed to participate in the appeal and you will be treated as a *party* to the appeal. Any written representations, summary evidence (yours or your witnesses) or other documents you have submitted to the PPF Ombudsman will form part of the appeal. They will be copied to any other *parties* and will be made available to other interested persons. Their existence will be posted on the PPF Ombudsman's website. You may appoint a representative to act for you. Ask us for a form.

If the PPF Ombudsman decides that you are not an interested person, your representations, summary evidence (yours or your witnesses) or other documents you have submitted to the PPF Ombudsman will not form part of the appeal (and will not be copied or made available to anyone else).

Glossary

scheme manager means the Secretary of State for the Department for Work and Pensions. However, decisions may be issued by someone acting on behalf of the Secretary of State, in which case references to the *scheme manager* also apply to that person. The FAS is currently administered by the Pension Protection Fund.

parties to the appeal means the person making the appeal and the *scheme manager*. Where the appeal relates to a *scheme notification decision* or a *scheme eligibility decision*, it also means the *trustees* or *managers* (if any) of the pension scheme and any person who satisfies the PPF Ombudsman that they are receiving or may receive benefits under the pension scheme and so are treated as a *party*.

scheme notification decision means a decision by the *scheme manager* under the FAS's internal review procedure as to whether or not the relevant pension scheme details have been provided to the FAS within the required timescale.

scheme eligibility decision means a decision by the *scheme manager* under the FAS's internal review procedure as to whether or not the pension scheme is a qualifying pension scheme under the FAS.

trustees or ***managers***, in relation to an occupational pension scheme means
a) in the case of a scheme established under a trust, the *trustees* of the scheme, and
b) in any other case, the *managers* of the scheme.