



SECTION:	Administrator
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TITLE:	Administrator's Management of Inquiries and Complaints from Plan Beneficiaries - PBA ss. 22 and 29 - Regulation 909 s.45
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Note: Where this policy conflicts with the Financial Services Commission of Ontario Act, 1997, S.O. 1997, c. 28 (FSCO Act), Pension Benefits Act, R.S.O. 1990, c. P.8 (PBA) or Regulation 909, R.R.O. 1990 (Regulation), the FSCO Act, PBA or Regulation govern.

*Note: The electronic version of this policy, including direct access to all linked references, is available on FSCO's website at www.fSCO.gov.on.ca. All pension policies can be accessed from the **Pensions** section of the website through the **Pension Policies** link.*

The purpose of this policy is to clarify the responsibilities of the administrator of a pension plan (administrator) in responding to inquiries and complaints from plan beneficiaries (members, retired members, former members, surviving spouses, dependants, former spouses, and other person(s) who have an entitlement under the plan). The policy also provides the administrator with specific guidance on how to effectively manage inquiries and complaints from plan beneficiaries.

This policy is not intended to create additional rights, obligations or responsibilities for those involved in the administration of the pension plan and pension fund, or for the recipients of pension entitlements, beyond those required under the PBA and Regulation, or by the common law.

Responsibilities of the Administrator

The administrator is responsible for the oversight, management and administration of the pension plan, and the administration and investment of the pension fund. Both the PBA and the common law impose a duty on the administrator to ensure that the pension plan and pension fund operate in accordance with the requirements of the law and in the best interests of plan beneficiaries. As a result, the administrator is ultimately accountable to plan beneficiaries.

In accordance with section 22 of the PBA, the administrator has a duty of care and owes fiduciary duties to plan beneficiaries. Examples of the administrator's responsibilities to plan beneficiaries include:

- correctly paying benefit entitlements to plan beneficiaries when they are due;
- disclosing information about the pension plan, as it pertains to plan beneficiaries, within legislated timeframes; and
- responding to plan beneficiaries' inquiries and complaints.

As a fiduciary, the administrator is expected to observe high standards of integrity and honesty, and to act in good faith

and in the best interests of plan beneficiaries. For example, when the administrator reviews a plan beneficiary's inquiry or complaint about the pension plan, the terms of the plan should be interpreted in a fair and impartial manner. (For additional information about the administrator's fiduciary duties owed to plan beneficiaries, visit the website of the Canadian Association of Pension Supervisory Authorities (www.capsa-acor.org) to access [Guideline No. 4: Pension Plan Governance Guidelines and Self-Assessment Questionnaire](#).)

When dealing with plan beneficiaries' inquiries and complaints, the administrator needs to be knowledgeable about the legislation that applies to registered pension plans. Such legislation may include, but is not limited to:

- the PBA and Regulation;
- the pension standards legislation of any other applicable jurisdiction (for multi-jurisdictional pension plans);
- the Income Tax Act (Canada);
- the Employment Standards Act, 2000;
- the Labour Relations Act, 1995;
- the Family Law Act;
- the Workplace Safety and Insurance Act, 1997; and
- the Freedom of Information and Protection of Privacy Act.

If the administrator does not have the necessary knowledge to deal with plan beneficiaries' inquiries or complaints, some or all of these responsibilities may be delegated to those individuals or third-party service providers (service providers) who have the required knowledge. However, these delegates are subject to appropriate ongoing oversight by the administrator.

The administrator should also consider how plan records will be managed and maintained in order to have them readily available when dealing with plan beneficiaries' inquiries and complaints. For guidance on prudent record keeping practices, see FSCO policy [A300-200 \(Management and Retention of Pension Plan Records by the Administrator\)](#).

In cases where the pension plan forms part of a collective bargaining agreement (or where plan beneficiaries have union representation, even though the pension plan may not be collectively bargained), the administrator may be required to inform the collective bargaining agent about certain complaints from plan beneficiaries. For these situations, the terms of the collective bargaining agreement would generally specify the union's involvement with respect to these complaints.

For multi-employer pension plans, participating employers have an important role in the inquiries and complaint process. Participating employers must provide the administrator with information that is required to address plan beneficiaries' inquiries and complaints to enable the administrator to comply with the terms of the pension plan, the PBA and Regulation.

Communicating with Plan Beneficiaries

The PBA and Regulation require the administrator to inform plan beneficiaries about their entitlements under the plan, and to provide information about the plan provisions that apply to them through various pension statements, notices or other documents (e.g., annual pension statements, member booklets, ad hoc notices about plan amendments, etc.).

The administrator is also responsible for informing plan beneficiaries about their rights and obligations regarding the pension plan. This includes their right to know what pension plan information they are entitled to receive (e.g., pension statements, etc.), when and how often they are entitled to receive that information (e.g., how often they will receive pension statements, copies of plan records, etc.), and where they may access that information (e.g., where they can inspect plan records, etc.).

In addition to any legislated requirements, it would be appropriate for the administrator, as a governance matter relating to

communications, to make the following information readily available to plan beneficiaries:

- Who plan beneficiaries should contact for inquiries and complaints (e.g., name of specific individuals/positions, call centre contact information and the relevant telephone numbers, fax numbers, e-mail addresses, mailing addresses, etc.).
- The type of supporting information that needs to be included with each inquiry or complaint.
- How plan beneficiaries should submit their inquiries or complaints (e.g., in writing).
- The expected timeframe for receiving a response from the plan administrator.
- Where plan beneficiaries may inspect the plan records that are listed under section 45 of the Regulation (e.g., plan texts, plan amendments, trust agreements, prescribed filings, etc.).
- The administrator's internal dispute resolution process (if one exists) for situations where a plan beneficiary disagrees with the administrator's response and other options that may be available to him or her (e.g., how to request further consideration by the administrator's review panel (if any), directing the individual to FSCO, etc.).
- The plan beneficiary's right to make a submission to FSCO in cases where a complaint cannot be resolved by the administrator. (Note: FSCO reviews each complaint on a case-by-case basis and determines whether the complaint can be resolved. Submissions by both the plan beneficiary and administrator will be considered before FSCO makes a determination about whether the administrator's actions are in compliance with the PBA, Regulation and FSCO's published policies. The administrator should consider advising plan beneficiaries of the information that is available on FSCO's website under [General Information About Inquiries and Complaints for Pension Plan Beneficiaries](#).)

The information that is listed above can be built into any of the statements or records that are required to be provided to plan beneficiaries, or it can be made available on the administrator's website, newsletters, bulletin boards, etc. The administrator should determine the best method of communicating this information to plan beneficiaries, to ensure that this information is readily available to anyone who has an inquiry or complaint, and that plan beneficiaries know how their inquiries and complaints will be handled by the administrator.

Policy on Managing Inquiries and Complaints

It may be helpful for the administrator to develop and implement a written policy on how to manage inquiries and complaints from plan beneficiaries. The administrator can start by establishing a timeframe for reviewing current processes and procedures, and for developing and implementing the policy.

If the administrator already has such a policy in place (or once the policy is in place) a timeframe should be developed for the periodic review of the existing document to determine if there is any relevant information that needs to be updated (e.g., contact information, etc.) or if additional information needs to be included.

The process for managing inquiries and complaints may be different. Inquiries are typically requests for information and do not involve a dispute or disagreement. Inquiries can generally be handled quickly. On the other hand, complaints typically arise from situations where there is a disagreement between the administrator and the plan beneficiary. The administrator may require additional time and resources to address complaints. Note that a plan beneficiary's inquiry may turn into a complaint if the administrator does not handle the inquiry appropriately or if the plan beneficiary is dissatisfied with the administrator's response.

When developing the policy, the administrator should determine the content for this document based on what is most appropriate for the pension plan. The content will vary from plan to plan, depending on the number, frequency and complexity of inquiries and complaints that are generally handled by the administrator. In addition, the content will depend on whether inquiries and complaints are handled in-house or by service providers. FSCO recommends that the policy clarify (among other things) the roles and responsibilities of those individuals or service providers who are entrusted with this task, and that it be written in plain language. FSCO developed a tool called [Guideline for Developing a Written Policy on Managing Inquiries and Complaints from Plan Beneficiaries](#) that administrators may wish to refer to when developing the policy.

The administrator of a pension plan that receives large volume of inquiries may find it useful to separate different processes under different policy documents (i.e., separate documents for handling inquiries, complaints, communication requirements, training requirements, etc.). The administrator of a pension plan that seldom receives inquiries or complaints may find that the entire process for managing inquiries and complaints can be contained in a couple of pages. The length of the policy is not important. What is important is that the policy (or policies) clearly sets out everyone's roles and responsibilities and the processes that must be followed.

In FSCO's view, the policy will contribute towards:

- consistency and efficiency in the management of inquiries and complaints;
- consistency and timeliness in the responses that are provided to plan beneficiaries;
- identification of specific areas of plan administration that require improvement (e.g., by keeping track of the frequency of inquiries or complaints relating to a particular issue, etc.);
- improvement of communications with plan beneficiaries (e.g., by managing plan beneficiaries' expectations with respect to response times, etc.); and
- clarification of the administrator's fiduciary obligations.

Delegation of the Administrator's Duties

The administrator may delegate the responsibility of responding to inquiries and complaints from plan beneficiaries to a service provider. However, the administrator must continue to supervise the work of the service provider, and ensure that inquiries and complaints from plan beneficiaries are being processed in accordance with the requirements of the PBA, Regulation, terms of the pension plan, and any other applicable legislation. It should be noted that the service provider is subject to the same standard of care that is imposed on the administrator under section 22 of the PBA.

The delegation should be made in writing and clearly specify the duties of the service provider. The agreement between the administrator and service provider should address (among other things), privacy concerns and any limitations on using plan beneficiaries' information for any reason other than benefit administration. The agreement should also provide instructions on how inquiries and complaints need to be processed on behalf of the administrator. (Note: The administrator needs to ensure that plan beneficiaries are notified of any arrangements with the service provider, and give proper authorization for the release of personal information, in accordance with applicable privacy legislation.)

If the service provider has its own policy on the management of inquiries and complaints, it may be adopted if the administrator is satisfied that it complies with the requirements of the PBA, Regulation, terms of the pension plan and any other applicable legislation.

It is important for the administrator to be aware of plan beneficiaries' issues, even though they are handled by the service provider. The administrator is ultimately responsible for the final decisions that are made with respect to those issues, and any subsequent actions that may have to be taken, as directed by FSCO, the Financial Services Tribunal or the courts. Therefore, the administrator should establish policies and procedures to ensure that such information is made available by the service provider. As a general practice, staff in FSCO's Pension Division will copy the administrator on correspondence between FSCO and the service provider.

Timing of Responses to Inquiries and Complaints

The administrator should respond to plan beneficiaries' inquiries or complaints within a reasonable period of time. For the majority of inquiries and complaints, FSCO expects the administrator to provide a response within 30 days of receiving the written inquiry or complaint. If the administrator is unable to respond within the 30 days, plan beneficiaries should be notified of the reason for the delay and an anticipated date for when the response will be provided.

When responding to plan beneficiaries' requests for access to plan records under section 29 of the PBA, section 45(5) of the Regulation requires the administrator to comply with these requests within 30 days after receiving each written request. Plan beneficiaries are entitled to have access to plan records that are listed in section 45(1) of the Regulation that apply to them. Plan members are entitled to access these records once in a calendar year.