



Freedom of Information Act

Section 15 and Section 16 Reference Manual

“Guide to the functions of and information held by The Pensions Board”

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1. Introduction -The Freedom of Information Act, 1997-2003

The Freedom of Information Act 1997 (the FOI Act) established three new statutory rights:

- 1) a legal right for each person to access information held by public bodies
- 2) a legal right for each person to have official information relating to him/herself amended where it is incomplete, incorrect or misleading
- 3) a legal right to obtain reasons for decisions affecting oneself.

This reference manual which has been prepared and published in accordance with the requirements of sections 15 and 16 of the FOI Act assists members of the public with access to official information held by The Pensions Board.

2. Access to information

It is the policy of The Pensions Board to support the right, under the FOI Act, of members of the public to obtain information in the possession of the Board to the greatest extent possible consistent with the public interest and the right to privacy.

The Board currently makes information available to the public in relation to its functions and activities. Such information will continue to be available informally without the need to use the FOI Act.

The FOI Act is designed to allow public access to information held by public bodies which is NOT usually available through other sources. Access to information under the Act is subject to certain exemptions and involves specific procedures and time limits.

3. What The Pensions Board does

The Pensions Board was established under the provisions of the Pensions Act, 1990, as amended, ("The Act") as a representative body, comprising a chairperson and 16 ordinary members appointed by the Minister for Social Protection.

The Act defines the functions of the Board as follows:

- to monitor and supervise the operation of the Pensions Act and pensions development generally, including trust Retirement Annuity Contracts (RACs) and Personal Retirement Savings Accounts (PRSAs)

- to issue guidelines or guidance notes on the duties and responsibilities of trustees of schemes and codes of practice on specific aspects of their responsibilities
- to issue guidelines or guidance generally on the operation of the Pensions Act
- to encourage and support the provision of appropriate training facilities for trustees of schemes
- to advise the Minister on all matters relating to functions assigned to the Board under the Act and on matters relating to pensions generally and to undertake such tasks as the Minister may, from time to time, request.

The Pensions Board's mission is to:

- promote the security and protection of members of occupational pension schemes, trust RACs and contributors to PRSAs in accordance with the Act
- promote the development of efficient national pension structures
- promote a level of participation in the national pension system which enables all citizens to acquire an adequate retirement income
- provide information and authoritative guidance to relevant parties concerning pension security, structures and participation.

Why is there a Pensions Board?

Occupational pensions play an important role in maintaining employees' living standards when they retire and in providing for their dependants in the event of their death. They do this by allowing part of the earnings of employees to be put aside during the economically active part of their lives, so that they (and their dependants) can draw on it later in the form of a pension.

Over 500,000 employees in Ireland are members of occupational pension schemes, and their pensions may be the most valuable asset they have. It is therefore essential that these assets be protected, and it was principally for this purpose that the Pensions Act, 1990, was introduced. The Pensions Act contains provisions for the proper administration of pension schemes and the protection of members' pension rights.

However, laws in themselves are not always enough, and so the Pensions Act also provided for the setting up of The Pensions Board to oversee the implementation of the Act.

Supervising the Pensions Act

Monitoring and supervising the operation of the Pensions Act involves a wide range of tasks including:

- setting up the administrative structures necessary for the operation of the Act
- registering pension schemes in order to set up a database through which schemes can be traced
- assisting members who are concerned about the operation of their pension scheme and, if necessary, acting on their behalf
- carrying out investigations into the state and conduct of schemes
- if necessary, bringing Court actions against those who do not comply with the Pensions Act.

Supervisory priorities

In order to ensure that its regulatory practices are efficient the Board's supervisory approach is based on a hierarchy of risk priorities as follows:

1. scheme or PRSA assets or contributions being misappropriated
2. benefit entitlements being calculated incorrectly
3. defined benefit schemes being funded inadequately
4. inappropriate investment of pension assets
5. insufficient information provided to members.

The Board assesses levels of compliance based on the above priorities through a process of direct engagement with regulated entities and their administration providers.

Directory of Services

The Board has five main areas of activity, which are outlined below.

- **Regulation**
Regulation is responsible for carrying out investigations into the state and conduct of schemes, auditing documentation which schemes are required to produce and ensuring compliance with the funding standard in the case of defined benefit schemes. Regulation also approves PRSA products jointly with the Revenue Commissioners.
- **Information**

Information is responsible for the provision of the Board’s information, guidance and enquiry services. Information also promotes participation in the national pension system.

- **Policy and Actuarial Services**
Policy and Actuarial Services deal with actuarial and policy-related matters arising within the Board’s overall remit.
- **Legal Services**
Legal Services deal with technical and legal related matters arising within the Board’s overall remit.
- **Corporate Services**
Corporate Services have responsibility for financial controls, human resources, information technology, office facilities and act as secretariat to the Board.

Membership of The Pensions Board

The Pensions Board is a statutory Body comprising a chairperson and up to sixteen ordinary members. While all its members are appointed by the Minister for Social Protection under the provisions of the Pensions Act, the Board must be comprised of representatives of trade unions, employers, the Government, the pensions industry, member trustees and professional groups involved with pension arrangements.

The term of office for Board members is five years. Casual vacancies are filled directly by the Minister, on the nomination of the relevant nominating body, as appropriate. A person who fills a casual vacancy holds office for the remainder of the current five-year period.

On 22 December 2010, the Minister announced the appointment of the Pensions Board which takes up office for the five year period 2010 – 2015.

The Pensions Board members

Jane Williams (Chairperson) The Sia Group	Nominee of the Minister for Social Protection
Rosalind Briggs Mercer	Nominated by the Society of Actuaries in Ireland
Noreen Deegan Friends First	Nominated by IBEC
Brendan Johnston Zurich Life Assurance plc	Nominated by the Irish Insurance Federation

Prof. John McHale National University of Ireland	Nominee of the Minister for Social Protection Representative of consumer interests
Patricia Murphy Department of Social Protection	Representative of the Minister for Social Protection
Terence Noone DHKN Chartered Accountants	Nominee of the Minister for Social Protection
Emer O'Flanagan O'Driscoll O'Neill Ltd	Nominee of the Minister for Social Protection
Don O'Higgins IBEC	Nominated by IBEC
Phelim O'Reilly Attain Consulting Ltd	Nominated by the Irish Association of Pension Funds
David Owens Department of Finance	Representative of the Minister of Finance
Rachel Ryan SIPTU	Nominated by the Irish Congress of Trade Unions
Mary Walsh Chartered Accountant	Nominee of the Minister for Social Protection
Niall Walsh Deloitte	Nominated by the Consultative Committee of the Accountancy Bodies – Ireland
Robin Webster Age Action Ireland	Nominee of the Minister for Social Protection Representative of pensioner interests

The Pensions Board staff (July 2011)

Day to day decision making is delegated to staff under the Board's active supervision.

Brendan Kennedy	Chief Executive
Mary Hutch	Head of Regulation
Tom Dunphy	Head of Corporate Services (Secretary to the Board)
Philip Dalton	Head of Planning
David Hegarty	Head of Policy
Sylvia McNeece	Head of Legal
Grace Guy	Deputy Head of Legal
Pat O'Sullivan	Actuarial Advisor
David Malone	Head of Information

Assistant Principal Officers

Aideen Bugler
Eoin Cassells
Gerard Clarke
Madeline Delaney
Catherine Goulding
Mary Howe
Maura Howe
Andrew Nugent
Cheryl Richardson

Higher Executive Officers

Rachael Gleeson
John McCarthy
Kieran O'Dea
Ronan Scott

Executive Officers

Sherry Bass
Martin Buggy
Ciarán Holahan
Emily Keyes
Deirdre Kelly
Alison Massey
Catherine McAuley
Renée O'Reilly
Edel Stenson
Christina Winters

Clerical Officers

Laura Allen
Valerie Christie
Mary Conlon
Niamh Crowley
Niall Dervan
Marie Earley
Paul Flaherty
Eileen Flynn
Emma Hunter
Lydia Leonard
Julie McCarthy
Maura Moroney
Barry O'Connor

4. Information available from The Pensions Board

Information for scheme members

The effectiveness of the Pensions Act in safeguarding occupational pensions depends to a large extent on scheme members being made fully aware of their rights under the Pensions Act. The Board's information services are designed, in particular, to help members to understand their rights under the Act and to use these rights to ensure that their pensions are fully protected.

With this in mind, the Board produces an extensive range of information in the form of information booklets, checklists, guidance notes on all aspects of the Pensions Act relevant to scheme members. All this information is available free of charge from the Board and is also available on the Board's website.

Guidance/training for trustees

Trustees are tasked with a very important job, essentially to look after other people's money in a pension scheme. Trustees are vital to the pension system which includes an estimated €70 billion of pension savings. Trustees need to have a certain basic knowledge of the pension system and should be aware of their duties and responsibilities.

The Board is committed to supporting trustees in their challenging role and to assist them in complying with their responsibilities and duties as trustees. In addition to the training the Board offers guidance to trustees and provides a wide range of resources including:

- trustee training e-learning system
- the Trustee Handbook
- guidance and FAQs on changes in legislation or to regulations
- a range of information booklets and checklists
- a list of registered trustee training courses
- an enquiry service on (01) 613-1900 or at info@pensionsboard.ie

Guidance for pension practitioners

Detailed guidance notes and FAQs (designed mainly for the use of pension practitioners) in relation to compliance with the main provisions of the Act can be downloaded from the Board's website at www.pensionsboard.ie under Regulation / Guidance & FAQs.

Information available under FOI from The Pensions Board

The Board is required by the FOI Act to publish the rules, procedures, practices, guidelines and interpretations made by the Board, and an index of any precedents kept by the Board, for the purposes of decisions, determinations or

recommendations, under or for the purposes of the Pensions Act with respect to rights, privileges, benefits, obligations, penalties or other sanctions to which members of the public are or may be entitled or subject under the Pensions Act and information in relation to the manner of administration of the Pensions Act.

The Board has published a number of documents which, together, meet the requirements of the Freedom of Information Act in this respect.

Information provided by the Board can be summarised as follows:

1. Information Booklets
2. Guidance Notes / FAQs
3. Trustee Handbook incorporating Codes of Practice for Trustees
4. Trustee e-Learning available from the Board's website
5. Register of trustee trainers
6. Policy reports
7. Annual Report of The Pensions Board

All of these publications are available free of charge and are on the Board's website at www.pensionsboard.ie

The procedures followed by the Board for dealing with applications under the FOI Act are contained in the 'FOI Manual - A Guide to the Freedom of Information Act' as issued by the Department of Finance a copy of which is available on the Board's website.

Class of record	Explanation
Internal administration	These records concern the day to day management of the Board. Information held in this area can include subjects such as financial control, organisation of Board meetings, contracts for the provision of goods and services to the Board, etc.
Policy	This is information held on the formulation and implementation of policy, which can evolve from a wide range of sources, including recommendations of the Board or Ministerial instructions.
Legislation	Information kept under this heading relates to the preparations for law making, the procedure by which a proposal from its initial stages ultimately becomes law through the introduction of an Act of the Oireachtas.
Register of schemes	Trustees of schemes are obliged, under the Pensions Act, to register occupational pension schemes with the Board. Information in this category includes the

	database which the Board maintains for this purpose.
PRSA products	The Board supervises the activities of providers in relation to their approved products and monitors compliance with the legislation regarding PRSAs. As part of the Boards regulatory role, a register of PRSA providers and their products is available for inspection at the Board.
Enquiries	The Board's Enquiry Service deals with enquiries from scheme members and their dependants, prospective members, trustees, trade unions, employers and company employees with personnel, industrial relations and/or pay functions. Enquiries of a more technical nature are also received from pension practitioners and professional bodies.
Compliance	Information kept in this category relates to complaints of non-compliance with the Pensions Act, compulsory and voluntary reports to the Board, scheme audits, investigations arising from enquiries/complaints/reports, prosecutions under the Act and the issuing of directions etc. under the Act.
Determinations	Information kept in this category relates to the formal determinations that the Board has the power to make under the Act.
Instructions/guidelines	Information in this category includes all stages of instructions or guidelines issued to Board members and/or staff in the administration of the Pensions Act.
EU directives/guidelines	Material held would contain information on the directive or guideline in question, and how it is interpreted and operated in the State.

5. Making an FOI application to The Pensions Board

Under the FOI Act, anyone is entitled to apply for access to information not otherwise publicly available. Each person has a right to:

- access to records held by the Board
- correction of personal information relating to oneself held by the Board where it is inaccurate, incomplete or misleading
- access to reasons for decisions made by the Board directly affecting oneself.

The following records come within the scope of the FOI Act:

- all records relating to personal information held by the Board irrespective of when created
- all other records created from commencement date i.e. 21 April 1998
- any other records necessary to the understanding of a current record.

The Board is obliged to respond to the request within 4 weeks.

Applications for information under the FOI Act should be addressed to:

The FOI Liaison Officer
The Pensions Board
Verschoyle House
28/30 Lower Mount Street
Dublin 2
Tel: (01) 613 1900
Fax: (01) 631 8602
E-mail: foi@pensionsboard.ie

Applications should be in writing and should indicate that the information is sought under the FOI Act. If information is desired in a particular form i.e. photocopy, computer disk, etc. this should also be mentioned in your application.

Please give as much detail as possible to enable the Board to identify the records you require. If you have difficulty in identifying the precise records that you require, the Board will be happy to assist you in preparing your request. Please include a day time telephone number so that you can be contacted if it is necessary to clarify details of your request.

Note: In certain circumstances, fees may be levied in respect of the supply of information (see section on fees).

Rights of review and appeal

The FOI Act sets out a series of exemptions to protect sensitive information where its disclosure may damage key interests of the State or of third parties. Where the Board invokes these provisions to withhold information, the decision may be appealed. Decisions in relation to deferral of access, charges, forms of access, etc. may also be the subject of appeal. Details of the appeals mechanisms are set out below:

Internal review

You may seek an internal review of the initial decision if:

1. you are dissatisfied with the initial response received i.e. refusal of information, form of access, charges etc or
2. you have not received a reply within 4 weeks of your initial application. This is deemed to be a refusal of your request and allows you to proceed to internal review.

Requests for an internal review should be submitted in writing to:

The FOI Liaison Officer
The Pensions Board
Verschoyle House
28/30 Lower Mount Street
Dublin 2
Tel: (01) 613 1900
Fax: (01) 631 8602
E-mail: foi@pensionsboard.ie

Such a request for an internal review must be submitted within 4 weeks of the initial decision. The Board must complete the review within 3 weeks. An internal review must normally be completed before an appeal may be made to the Information Commissioner.

Review by the Information Commissioner

If still dissatisfied following completion of an internal review, you may seek independent review of the decision from the Information Commissioner. Also, if you have not received a reply to your application for an internal review within 3 weeks, this is deemed to be a refusal and you may appeal the matter to the Commissioner.

Appeals in writing may be made directly to the Information Commissioner at the following address:

Office of the Information Commissioner
18 Lower Leeson Street Dublin 2.
Telephone: (01) 678 5222
Fax: (01) 661 0570
Email: info@oic.ie

Fees

In line with the provisions of the FOI Act, fees may be charged as follows: There are basically two types of charges that apply under the FOI Act:

1. upfront fees

2. fees for search and retrieval of records and photocopying.

Upfront fees

Such fees only apply to requests for access to non personal records. A fee of €15 must accompany a request for records other than records containing only personal information relating to you. A reduced fee of €10 applies in relation to such a request if you are a medical card holder. Neither fee applies if the request is for personal information relating to you only. In the case of requests for non-personal records, there are also fees applicable in relation to an internal review and appeals to the Information Commissioner.

Search and retrieval/photocopying fees

No fee will be charged in respect of personal records, either for the search and retrieval of records or for the photocopying, except where a large number of records are involved. In respect of other (non-personal) information, fees may be charged in respect of the time spent in locating and copying records, based on the standard hourly rate (€20.95 per hour). No charges may apply in respect of the time spent by the Board in considering requests.

A deposit may be payable where the total fee for search and retrieval is likely to exceed €50.79. In these circumstances, the Board will notify you and if requested, assist you in amending the request so as to reduce or eliminate the amount of the fee.

There is no upfront fee for a request for a review in relation to personal records. However, a fee of €75 must accompany most applications for internal review of a decision in relation to non-personal records. A reduced fee of €25 applies if you are a medical card holder. There is no fee payable for cases where a review is sought due to the non-reply of the initial request.

There is no upfront fee for a request for an appeal in relation to personal records. However, a fee of €150 must accompany most applications for review by the Information Commissioner in relation to non-personal records. A reduced fee of €50 applies if you are a medical card holder. There is no fee payable for cases where an appeal is being sought due to the non-reply of the internal review request.

Statement of policy with regard to confidentiality and FOI

The Board undertakes to treat as confidential any information provided to it in confidence by individuals or others, subject to the Board's obligations under law, including Freedom of Information Act. If, for any reason, you wish that information provided to the Board should not be disclosed because of its

sensitive nature, then you must, when supplying the information, make clear this wish and specify the reasons for the information's sensitivity. The Board will consult with you before making a decision on any Freedom of Information request received involving sensitive information which you may have supplied.