

GREATER CLARITY OF ROLE IN DISPUTE RESOLUTION IS REQUIRED IF PENSION OMBUDSMAN'S NEW POWERS ARE TO DELIVER, SAYS HERBERT SMITH FREEHILLS

18 January 2019 | London
Firm news

Herbert Smith Freehills has today submitted its response to the Government's [consultation](#) on expanding the Pensions Ombudsman's dispute resolution powers and widening the jurisdiction of his office.

Responding to the Department for Work and Pensions consultation, which explores ways to facilitate early dispute resolution, Samantha Brown, pensions partner at Herbert Smith Freehills, argues in favour of the Ombudsman's representative having a role in dispute mediation, but calls for "a clear separation between the different functions performed by the Ombudsman's service to ensure that its investigations and determinations continue to be seen to be impartial and fair by all parties."

In Herbert Smith Freehills' response, the firm notes that if the Government is to expand the Pensions Ombudsman's role to include mediation (as outlined in question 3 of the consultation) three issues should be considered. These are:

- the availability of mediation as an option only if all parties involved in a dispute agree to it
- recognition that any settlement is a matter for agreement between the parties and that

the Ombudsman will not have the power to direct how a matter should be resolved at this stage, and

- the ability for either party to bring mediation to an end and request to move to a full investigation at any time.

Samantha Brown said: *"Reviewing the role and powers of the Pensions Ombudsman is a welcome move, given the expanded role the service now has as adviser, arbitrator and, potentially, mediator too. Any attempt to help parties resolve disputes at the earliest stage possible deserves attention, but the lines between the Ombudsman's different functions are currently very blurred. In the interests of justice, it is essential that there is a clearer separation."*

She added: *"There are clearly merits in the Ombudsman's service being able to offer to mediate between parties, but this should only be available where all parties agree to it. Additionally, if either party requests a full investigation it should be conducted by someone with no previous involvement in the matter to enable the parties to engage openly in any mediation process."*

The consultation closed on 18th January 2019.

MEDIA CONTACT

For further information on this news article, please contact:

**MIKE PETROOK, COMMUNICATIONS
MANAGER**

LONDON

Tel: +44 20 7466 3939

Email: mike.petrook@hsf.com