



Department
for Work &
Pensions

Triennial Review of Pensions Bodies

**A review of the Pensions Regulator,
Pensions Ombudsman, the Pension
Protection Fund Ombudsman and the
Pensions Advisory Service as Non
Departmental Public Bodies**

Call for evidence

27 June 2013

Triennial Review of the Pension Regulator, the Pensions Ombudsman, the Pension Protection Fund Ombudsman and the Pensions Advisory Service: Call for Evidence

Introduction

Following a review of all public bodies in 2010, the government's policy is to review Non Departmental Public Bodies (NDPBs) on a three yearly cycle. The purpose of these reviews is firstly to test whether there is a continuing need for each NDPB to exist and secondly, for bodies where that need is established, to ensure that the body is complying with the principles of good corporate governance.

A number of public bodies operate in the field of private pensions, covering a range of functions including regulation, advice, the resolution of disputes and the protection of funding. Four of these bodies are covered by this review. They are:

- the Pensions Regulator (TPR)
- the Pensions Ombudsman (PO)
- the Pension Protection Fund Ombudsman (PPFO)
- the Pensions Advisory Service (TPAS)

There is a description of each of the bodies in **annex 1**.

For each of the organisations, the review will consider whether its functions remain necessary, whether there are better ways of delivering those functions, and as a result whether and in what form the organisation should continue.

As well as considering each organisation individually, the review will also look at the roles of these bodies in relation to each other, and in the wider context of regulation and advice.

The review process

The review was announced on 27 June 2013 by Steve Webb, the Minister for Pensions, by a Written Ministerial Statement.

It is being led by Stefan Czerniawski, who is a senior civil servant in the Department for Work and Pensions and is independent of the departmental stewardship team responsible for the pensions bodies and of the bodies themselves. He will be supported by a small review team.

The first stage of the review is the gathering of information, of which this call for evidence is an important part. In addition to written responses, the review team will also conduct interviews with key stakeholders. Both DWP and the organisations under review will be invited to comment on findings and emerging conclusions. The final report and recommendations will be submitted to the Minister for Pensions and will be published.

Call for evidence

We invite those with an interest in the functions covered by the four bodies to contribute evidence to the review. Some specific questions are set out below, and it would be particularly helpful if respondents could structure their comments around them.

We are interested in both

- views about the organisations and their functions individually; and
- views about how their roles fit together and any gaps or overlaps that may result.

We do not expect that every response will cover all of the four organisations – comments which focus on a single organisation will be just as welcome.

Q1. Do the functions of each of the Pensions Regulator, the Pensions Ombudsman, the Pension Protection Fund Ombudsman and the Pensions Advisory Service remain necessary?

Q2. To the extent that the functions are necessary, are there alternative means of delivering them which would be more efficient and effective? Some alternative delivery options to be considered are outlined at **annex 2**, but you do not need to restrict your suggestions to the options listed.

Q3. Is continuing NDPB status the most appropriate and cost-effective delivery model for each of the organisations? Which

one or more of the three tests (set out at the end of annex 2) of the appropriateness of NDBP status does each organisation meet?

Q4. Is there sufficient clarity about the role of each body in relation to the others? Are there gaps or overlaps between their roles which should be addressed?

Q5. Is there sufficient clarity about the roles of these bodies in relation to other regulatory, advisory or dispute resolution bodies?

Q6. Are there any other issues or evidence the review team should take into account?

Please send responses to these questions by **9 August 2013** either by email to:

ppsd.triennialreviews@dwp.gsi.gov.uk

or by post to:

Nicola Lloyd
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By responding to the consultation, you consent to the possible disclosure and publication of your views as part of the review report or in response to a request under the Freedom of Information Act. If you consider that anything in your response should be kept confidential, please let us know.

Further copies of this call for evidence are available at:

www.gov.uk/government/consultations/triennial-review-of-pensions-bodies

Annex 1

Background information on the bodies under review

The Pensions Regulator

The Pensions Act 2004 reformed the regulatory system, setting up the Pensions Regulator to regulate occupational and other workplace pensions and replacing the previous pensions regulator, OPRA (the Occupational Pensions Regulatory Authority). OPRA had been established in 1997 in response to concerns about the security of pension schemes, particularly following the Maxwell case where some £440 million had been misappropriated from a number of pension schemes.

The Pensions Regulator is an executive NDPB and is accountable to the Secretary of State for Work and Pensions. It was established on 6 April 2005 and regulates around 80,000 work-based pension schemes. At 31 December 2012, membership of private sector Defined Benefit (DB) schemes stood at approximately 8 million; membership of private sector occupational trust based Defined Contribution (DC) schemes stood at approximately 1.4 million; and there were a further 6.4 million members of private sector hybrid schemes with both DB and DC members.

TPR's statutory objectives are to protect members' benefits, promote good administration of such schemes, and to reduce the risk of compensation being paid by the Pension Protection Fund (PPF). TPR is also responsible for maximising employer compliance with the new employer duties (including automatic enrolment) introduced by the Pensions Act 2008; and will be responsible for regulating the governance and administration of public service pension schemes from 2015. Subject to parliamentary approval, the Pensions Bill will add a new statutory objective, to minimise adverse effects on the sustainable growth of an employer.

The Regulator is funded by a grant-in-aid from the DWP. This is some £36.8 million for 2013/14. This funding is recoverable from eligible schemes through the general levy raised by DWP on registered

occupational and personal pension schemes. The set-up and operating costs of the automatic enrolment programme are funded by the DWP and are around £29.8 million in 2013/14.

The Regulator is overseen by a board of executive and non executive members. The board is responsible for setting the organisation's strategic direction and ensuring that it is properly run as a public body. The organisation employs around 400 permanent, fixed term, and contract staff.

Further information about the Regulator, including publications and annual reports can be found on its website at:

www.thepensionsregulator.gov.uk.

The Pensions Ombudsman and the Pension Protection Fund Ombudsman

The Pensions Ombudsman's office was established in 1991. It is classified as a tribunal NDPB. The Pensions Ombudsman and the Deputy Pensions Ombudsman are independent commissioners responsible for investigating and determining complaints and disputes about how occupational and personal pension schemes are run.

The powers granted to the Ombudsman in legislation are similar to those of the courts. The Ombudsman's decision is final and binding on all the parties and can be enforced, if necessary, in the courts. Any decision made by the Ombudsman can only be changed by appealing to the appropriate court on a point of law. The Ombudsman will usually only investigate once the complainant has raised the issue with the respondent or used their pension scheme's internal dispute resolution process (TPAS provides help with this part of the process).

The Pension Protection Fund Ombudsman was established in 2005 and is responsible for investigating and determining complaints and disputes concerning the Pension Protection Fund Board and is also responsible for dealing with appeals against decisions made by the board of the Pension Protection Fund in respect of the Financial Assistance Scheme.

The Pensions Ombudsman and the Pensions Protection Fund Ombudsman roles are currently held by one individual and both organisations' office functions are combined. There are currently around

38 staff. The Ombudsman's office is funded by a grant-in-aid from the DWP of some £3.648 million for 2013/14. This funding is ultimately recouped by the general levy raised on occupational and personal pensions schemes by the DWP.

The Public Bodies Act 2011 created a power to merge the Pensions Ombudsman and the Pension Protection Fund Ombudsman into a single organisation, but the power has not yet been exercised.

Further information about the Pensions Ombudsman and the Pension Protection Fund Ombudsman, including publications and decisions can be found on their websites at: www.pensions-ombudsman.org.uk and www.ppfo.org.uk

The Pensions Advisory Service

The Pensions Advisory Service (TPAS) was founded in 1983 and is a company limited by guarantee. It became an executive NDPB in 2006. TPAS delivers two different functions. It provides information and guidance to members of the public on pension issues; and also helps members of the public who have a problem, complaint or dispute with their occupational or private pension arrangements. Their service is free and is provided by a nationwide network of volunteer advisers alongside some 44 technical and administrative staff based in London.

Unlike the Pensions Ombudsman, TPAS does not have any statutory powers, though schemes are obliged to inform their members that TPAS exists as part of their internal dispute resolution process. This means that in relation to complaints or dispute handling it can only effect a resolution through persuasion and conciliation. TPAS's role is to help individuals resolve pensions issues before the Pensions Ombudsman gets involved.

The Service is overseen by a board of executive and non executive members. TPAS is funded via a grant-in-aid from the DWP of some £3.607 million for 2013/14. This is also recovered from the general levy. In addition, TPAS estimate the value of their volunteers' activity to be about £10 million.

Further information about the Pensions Advisory Service can be found on its website at: www.pensionsadvisoryservice.org.uk

Annex 2

Cabinet Office Checklist of Delivery Options

This checklist sets out a range of delivery options for consideration when reviewing the functions of NDPBs. The list is not exhaustive, and other creative ways of delivering functions may also be considered. However, **as a minimum**, government departments are expected to be able to show they have considered all of the options set out in this checklist when reviewing the functions of their NDPBs.

Delivery Options

- **Abolish:** Why does the function need to continue? How does this contribute to the core business of the NDBP and the parent Department? How does this contribute to wider government policy objectives? Is there a demand for the function or activity from users? Is providing the function a justifiable use of taxpayers' money? What would be the cost and effects of not delivering the function?
- **Move out of Central Government:** Why does central government need to deliver this function? **Can the function be delivered by local government, by the voluntary sector or by the private sector?** Is there an existing provider (or providers) in the local government, voluntary or private sector that could deliver this function? Can the function be privatised or delivered under contract by the voluntary or private sector? Can the function be delivered by a mutual, Community Interest Company or social enterprise? What are the risks and benefits of moving the function out of central government?
- **Bring In-House:** Why does the function need to be delivered at arms length from Ministers? Can the function be delivered more efficiently or effectively by the parent Department or by an existing agency of the Department? What would be the cost and benefits of bringing the function in-house?
- **Merge with another body:** Are there any other areas of central government delivering similar or complementary functions? Does the function duplicate work undertaken elsewhere? Could the function be merged with those of another public body?

- **Delivery by a new executive agency:** Could the function be delivered by a new executive agency? What would be the costs and benefits of this?
- **Continued delivery by a NDPB:** Does the function pass at least one of the government's "three tests" set out below? How well is the NDPB currently delivering the function? What is the view of users and stakeholders? Are the freedoms and flexibilities inherent in the NDPB model being used to deliver the function? Have all other possible delivery options been examined and evaluated?

The Three Tests

The "three tests" are:

- is this a technical function (which needs external expertise to deliver);
- is this a function which needs to be, and be seen to be, delivered with absolute political impartiality (such as certain regulatory or funding functions; or
- is this a function which needs to be delivered independently of Ministers to establish facts and/or figures with integrity?