



pensions ombudsman

pension protection fund ombudsman

Annual Report and Accounts 2011/12

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The Pensions Ombudsman's Accounts presented to Parliament pursuant to section 145(9) of the Pension Schemes Act 1993 and the Pensions Ombudsman's report presented to Parliament by command of Her Majesty.

The Pension Protection Fund Ombudsman's Accounts presented to Parliament pursuant to section 212A of the Pensions Act 2004, and the Pension Protection Fund Ombudsman's report presented to parliament by command of Her Majesty.

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About us

The Pensions Ombudsman

The Pensions Ombudsman's office investigates and determines complaints and disputes concerning occupational and personal pension schemes. The Pensions Ombudsman and Deputy Pensions Ombudsman are appointed by the Secretary of State for Work and Pensions. They act independently and impartially and their decisions are final and binding (subject to appeal to the courts on a point of law) and enforceable in the courts. The establishing legislation is Part X of the Pension Schemes Act 1993.

The Pension Protection Fund Ombudsman

The present holders of the posts of Pensions Ombudsman and Deputy Pensions Ombudsman have also been appointed Pension Protection Fund Ombudsman (PPFO) and Deputy PPFO. In this capacity they deal with complaints and "reviewable matters" connected with the Pension Protection Fund (a statutory corporation) and appeals against decisions of the manager of the Financial Assistance Scheme. The PPFO's functions are carried out by staff of the Pensions Ombudsman's office. The establishing legislation is sections 209 to 218 of the Pensions Act 2004.

Funding

The joint office is funded by grant-in-aid paid by the Department for Work and Pensions (DWP). The grant-in-aid is substantially recovered from the general levy on pension schemes, which is invoiced and collected by the Pensions Regulator. The levy is set by and owed to the Secretary of State for Work and Pensions.

In 2011/12 the office received £3,030,000 grant-in-aid, incurred net expenditure of £2,760,136 and had net assets of £345,777. Full details are in the accounts.

Ombudsman's Introduction

Section 1: Ombudsman's Introduction

This is the fifth annual report since my appointment. So I have been thinking about what I might have expected to be writing in this introduction when, in 2008, I wrote my first.

At the time there was a strong possibility that we would merge with the Financial Ombudsman Service, so the 2007/08 annual report might also have been my last!

But leaving that aside, I am sure I would have expected to have been reporting on progress in two areas that were (and still are) my particular obsessions: taking a proportionate approach to resolving disputes and widening and simplifying access to our service. And above all I would have been hoping to report that we had been carrying out our statutory purpose to the best of our ability, with commitment, flexibility and a sense of understanding of what it feels like to use our service.

I think I can say that my expectations have been fulfilled, even though I would in 2008 have failed in my predictive ability in one important, and potentially inhibiting, aspect. Unsurprisingly, I would not have foreseen the global banking collapse in the second half of that year. More significantly for our work I would not have predicted the straitening of public finances that followed in 2010.

A great deal of the progress we have made has been behind the scenes, designed to make us resilient as an organisation and give us the strength to manage our workload at the same time as managing change. So, for example, we have redefined our aims and values, restructured our management decision making, documented procedures and policies, added quality assurance processes, and changed our performance management framework. More visibly, we have reviewed our publications and website (though it will soon be time to do so again) and strengthened our industry relationships. Change to our business processes has come in the form of continued emphasis on early resolution, including restructuring our teams and work practices to reflect that emphasis.

Turning to 2011/12 in particular, in our business plan for the year we said that we would have to set aside some of our larger aspirations in favour of getting the core work done with the resources available. We did indeed get the work done – we exceeded most of our goals, with higher output than the previous year – and remarkably we did so without using all of the resources available, underspending our budget for the second year running.

One of the aspirations which we could simply not afford to set aside was to make substantial progress with refreshing and replacing our outdated and, in significant respects, inadequate IT systems. It is a pleasure to be able to report that we did indeed make progress and we start 2012/13 with new contracts ready and practical work about to begin. Amongst other things, we are moving to (highly secure) remote virtual servers. So next year's annual report introduction will be written in the cloud!

At the risk of offering a hostage to fortune, our caseload seems to have settled over the last two or three years at something over 900 new investigations a year. It is almost certain to increase over the longer term, with automatic enrolment eventually bringing many more people into pension scheme membership. But that will take time. Changes to our workload lag significantly behind industry changes. In recent years, 2011/12 being no exception, we have seen our cases alter slowly to reflect the shift, predominantly in the private sector, from defined benefit to defined contribution. In time we will see more complaints related to recent financial events affecting investment performance and job security, and the consequences of those in pension terms.

1: Ombudsman's Introduction

I mentioned earlier the work we have been doing to strengthen industry relationships. Without good relationships with our stakeholders on all sides we would not be able to function effectively. In particular this year our use of designated "relationship managers" from our staff for some of the larger pension schemes has shown itself to be working well.

And I am delighted to note that our relationship with the team at DWP, our sponsoring department, remains constructive. We were especially grateful for support we received on the IT side – some of which went above and beyond the call of duty for the DWP people involved.

But in recording gratitude, my most emphatic thanks must go to our staff. We are not working in easy conditions. To have done more this year than last is impressive. It demonstrates the extent of their willingness, enthusiasm and commitment, all of which give me great confidence for the future.

A handwritten signature in black ink, appearing to read 'Tony King', with a large, stylized flourish at the end.

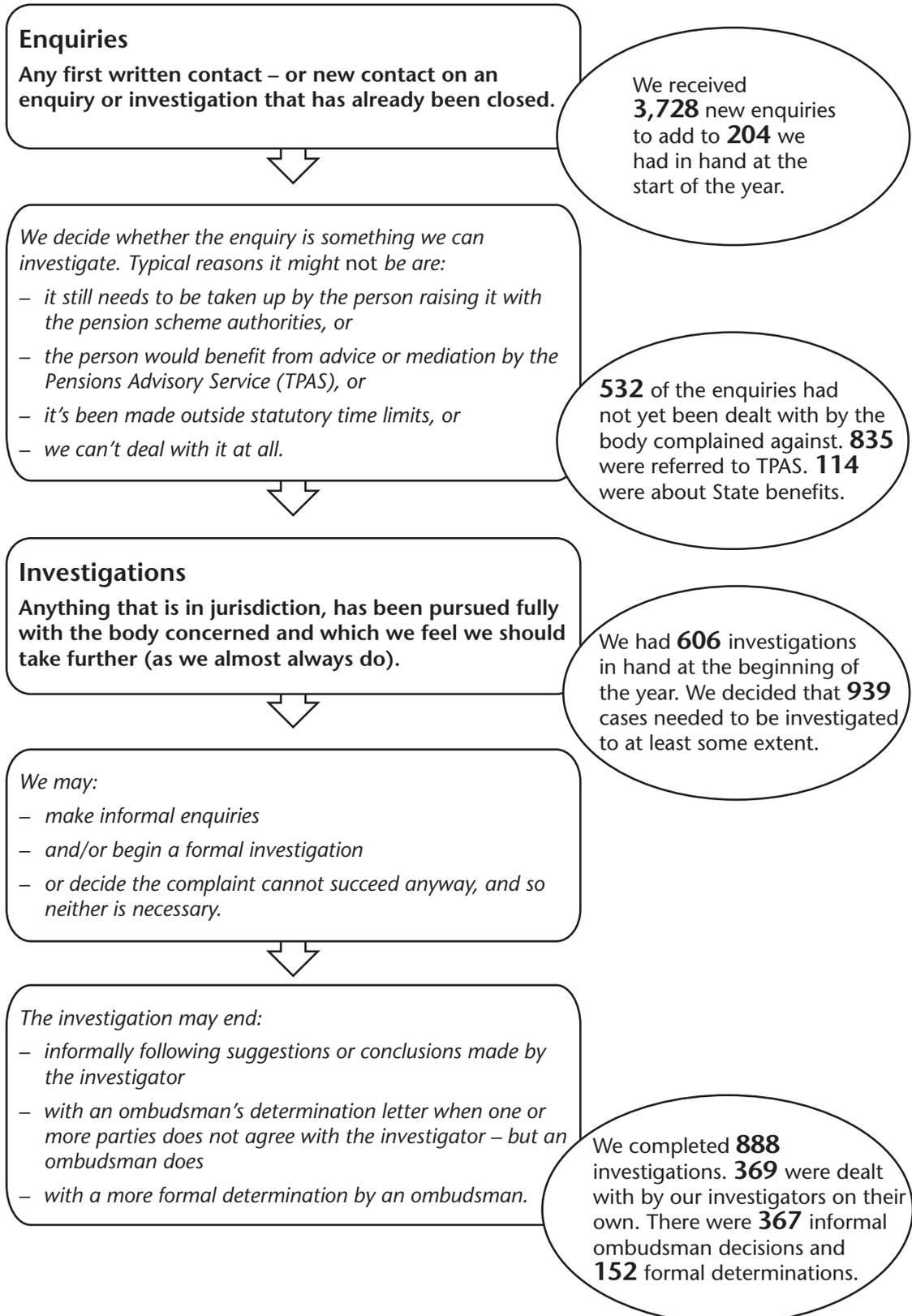
Tony King
Pensions Ombudsman
Pension Protection Fund Ombudsman

Management Commentary

Section 2 – Management Commentary

2.1 Pensions Ombudsman casework review

Our process



Our performance

In our business plan for the year we set ourselves some challenging goals.

what we said

what we did

*we would respond to enquiries on average in **3** working days*

we responded in an average of **2.35** working days

*if we had **3,100** enquiries there would be no more than **100** open at 31 March end*

we had **3,728** and there were **122** open at the year end

*we would decide whether we could investigate a case or not within **9** weeks from the date of the application on average*

we made our decisions whether to investigate in **7.5** weeks on average

*we would complete **850** investigations*

we completed **888** investigations

*if we took on **873** new investigations we would have no more than **630** open at 31 March*

we took on **939** and had **657** open at the year end

*we would complete investigations on average within **12** months from the date of the application*

we completed investigations in an average of **10.5** months

*at 31 March the average age of our open investigations would be not more than **28** weeks*

the average age of open investigations was **28.5** weeks at the year end

*we would have no more than **20** open investigations over a year old at 31 March*

there were **72** open investigations that were between one and two years old

*we would have **0** open investigations over two years old at 31 March*

there were **5** open investigations that were more than two years old

Our costs

Our budgeted operating cost for the year was **£2.905m**

Our actual operating cost was **£2.760m**

An under spend against budget of **£0.145m**

We said that our operating cost divided by the total number of completed enquiries and investigations would be no more than **£880**

– it was **£734**

We said that our operating cost divided by the number of completed investigations would be no more than **£3,325**

– it was **£3,108**

The main reason that our cost/closure ratios were lower than we expected was that we under spent our staff budget (see section 2.3). So, to use a fashionable phrase, we did more – with less.

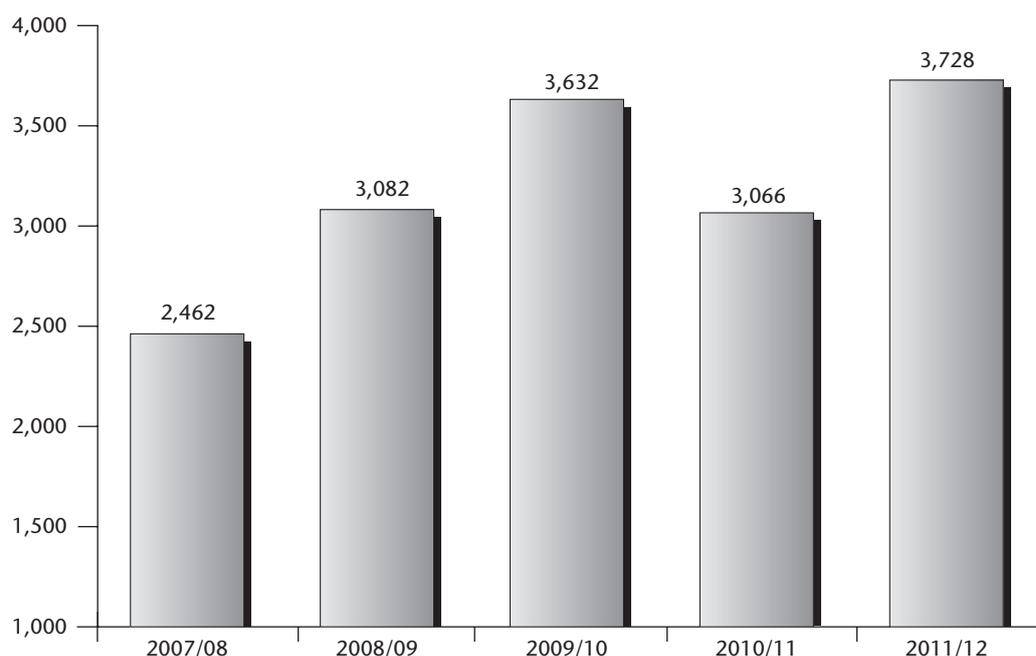
The flow of cases

	2009/10	2010/11	2011/12
Enquiries			
Open at start of year	315	222	204
New	3,632	3,066	3,728
Referred rejected or discontinued	2,775	2,169	2,871
Accepted for Investigation	950	915	939
Open at end of year	222	204	122
Investigations			
Open at start of year	477	538	606
Accepted for investigation	950	915	939
Completed	889	847	888
Open at end of year	538	606	657

New enquiries

There was a significant increase in new enquiries over 2010/11. It related to a single issue concerning commutation factors in pension schemes for police and fire fighters. Those enquiries were “parked” – and so treated as closed – pending progress with a “lead” case.

New enquiries over five years



What we did with enquiries

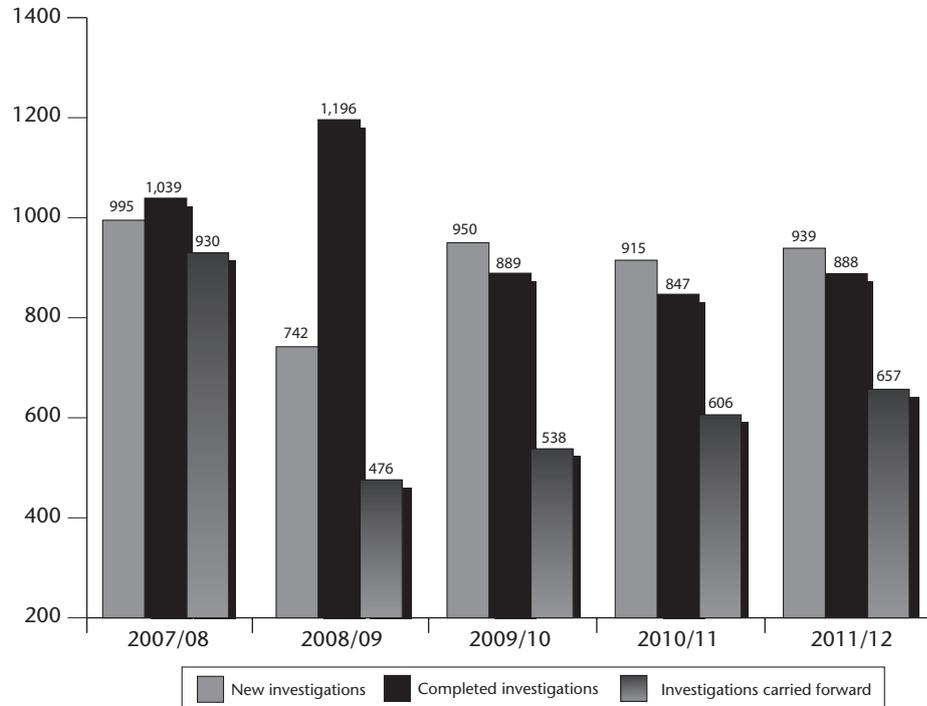
The two main reasons that an enquiry does not become an investigation are that it does not need to or is not ready to. So over 35% in total are referred back to be dealt with by the body complained about or passed on to the Pensions Advisory Service or the Financial Ombudsman Service. And a significant proportion simply fall away (nearly 14% in 2011/12), in many cases because they were an enquiry and no more than that.

The unusually high number described as “Discretion not to investigate exercised” are the group mentioned under “New Enquiries” above which have been parked – but which may be investigated later.

	2011/12	%	2010/11	%
Accepted for investigation	939	25	915	30
Complainant not eligible	8	0	6	0
Respondent not in remit	13	0	40	1
Not relating to pension scheme/plan	20	1	15	0
State scheme benefits	114	3	92	3
Enquiry not yet put to scheme/IDRP not used	475	12	237	8
Referred to the FSA or FOS	132	3	127	4
Referred to TPAS	835	22	877	28
Outside time limits	88	2	65	2
Subject to prior court proceedings	19	0	6	0
Discretion not to investigate exercised	630	17	16	1
Enquiry abandoned/no action needed	537	14	688	22
Total	3,810		3,084	

Investigations – new, completed and carried forward

For the last three years the number of new investigations taken on has been higher than we planned for – and slightly higher than the number we have completed. So even though this year we completed more than we said we would, we lost some ground and the number of cases in hand increased.

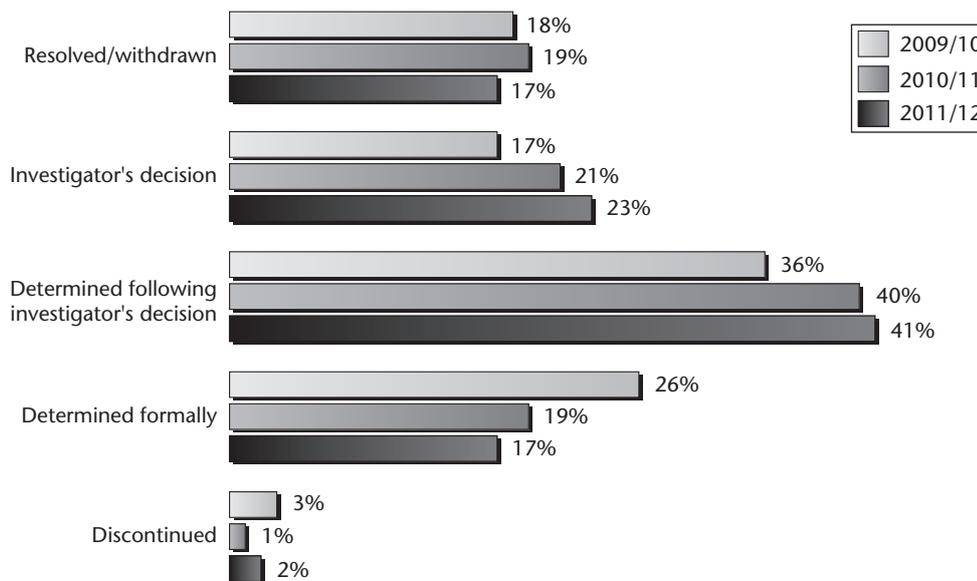


There is no clear reason for new investigations being higher than we thought. But it looks as if we need to think of 900 or above as the new norm.

Taking a proportionate approach to investigations

We strive to deal with each case in the way that best suits it. More straightforward cases may not need our most formal process. Others will; perhaps because they are complex, or involve a new point of law or practice, or the parties' positions are wholly irreconcilable.

Over time we have been progressively but gradually completing an increasing proportion of cases using simpler – and quicker – methods where appropriate. And the proportion for which we have used the formal determination process has been shrinking. In 2009/10, 71% of cases were completed using our more informal approaches. By 2011/12 the figure was 81%.



Resolved/withdrawn = when the investigator's informal involvement means that the person bringing the case no longer feels they need to pursue it, usually because it has been explained or resolved (plus some cases which lapse for other reasons).

Investigator's decision = when the investigator writes to say what an ombudsman's view of the case is likely to be and why – and the investigator's view is accepted.

Determined following investigator's decision = when the investigator's view is not accepted by one or more of the parties – but the ombudsman agrees with it.

Determined formally = when an ombudsman issues formal preliminary conclusions for comment, followed by a detailed determination.

Discontinued = a handful of cases that are ended by us, for example because the person raising the matter has stopped co-operating.

Investigation timescales

Our stakeholders' views of the service we provide are affected most by two things: the outcome of the case and the length of time we take to get to it. The outcome will rarely please everyone. Our timescales are much improved, but there is evidence that we are reaching a plateau. There is a point in the process at which most cases will wait in a queue for some months. We have reached a point of near equilibrium between intake and outflow so the queue is not diminishing. Since efficiency gains will be progressively hard to come by, significantly reducing timescales is likely to need resources that we have not presently got.

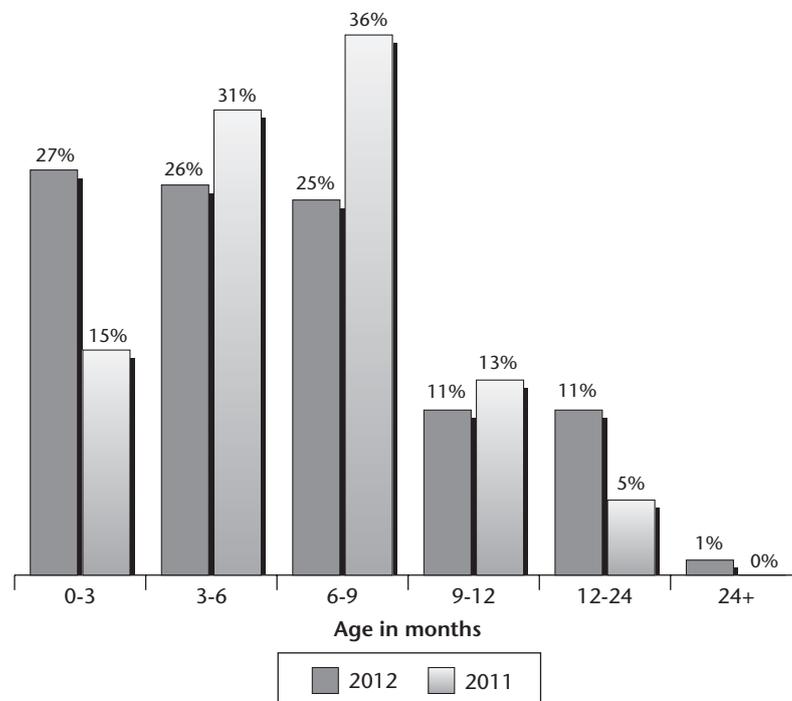
Ages of open and completed investigations over time

	2008/09	2009/10	2010/11	2011/12
Average age of open investigations at 31 March in months	9.3	6.0	6.7	6.5
Average age of investigations at completion in months	18.5	10.9	9.8	10.6

Age of investigations at completion over time (percentages)

	2007/08	2008/09	2009/10	2010/11	2011/12
Under 6 months	28%	6%	8%	8%	10%
6 to 12 months	28%	33%	68%	67%	58%
More than 12 months	44%	61%	24%	25%	32%

Age profile of open investigations at 31 March 2011 and 31 March 2012



What the cases were about

When looking at the proportion of complaints received under each subject matter a very similar pattern emerged this year to last, although unhelpfully over half of the complaints received did not fit into any of the subject matter categories, and so were marked as 'other'. During 2012/13 we will be replacing our current management information system, and as a result we expect to be able to provide more meaningful feedback on the subject matter of our complaints.

Complaints about entitlement to an ill health pension and transfer issues continue to make up as a significant part of our workload – this year together accounting for a fifth of all closed investigations.

Subject matter of completed complaints

	2011/12	%	2010/11	%
Annuity	6	1	7	1
AVCs	7	1	24	3
Calculations of benefits	40	5	52	6
Contributions, refunds & queries	9	1	21	2
Spouse's and dependants' benefits	39	4	37	4
Early retirement pension	35	4	43	5
Equal treatment	1	0	0	0
Ill-health pension	87	10	110	13
Incorrect/no payments	25	3	15	2
Membership conditions	10	1	16	2
Misleading advice	46	5	46	5
Transfers	89	10	88	10
Winding up	4	0	5	1
Other	490	55	383	45
Total	888		847	

Case summaries

The following cases give a flavour of our work. They have been anonymised because they are not all in the public domain and because they have been simplified and so may be at one or two removes from the original case.

Cases settled by agreement

We like to think that our investigators are adept at being able to help the parties see things from a different perspective, and understand what might have been done differently, to help put things right. An increasing number of cases are resolved without the need for a formal determination by an ombudsman, because everyone agrees.

Ill health early retirement – insufficiency of evidence used to establish permanent incapacity

Mr A was employed by a local authority. After suffering a stroke he was left with a range of symptoms which prevented him from working. He also suffered from anxiety and depression. His employment was terminated and he applied for early retirement on grounds of ill health. His application was rejected on the basis of a medical opinion that it was not possible to say he was permanently unfit as there were further treatment options available.

The key issue was whether he was permanently incapable of carrying out his duties due to ill health. The medical reports said he was not. But the opinion was not specific as to whether his incapacity was due to physical or psychological conditions; what treatments were available; and whether treatment would allow him to discharge his duties. And there was evidence from his doctors that there was no further treatment available in respect of his primary condition.

In the investigator's view the council had not had enough information to reach a clear decision and so was invited to reconsider his case. It agreed to obtain a further medical opinion covering whether there was any treatment available that would in fact enable him to discharge his duties; review his case on the basis of this; and, if appropriate, backdate his pension. Mr A was happy with this and so his complaint was resolved without the need for a formal determination.

Referring a case to an ombudsman

Often the investigator will engage with the parties to try and resolve the case without the need for it to be referred to one of our ombudsmen. But, where one of the parties asks for it, the case will be referred to an ombudsman, to be considered afresh. In this case the applicant did not accept the offer of settlement made by the trustees, and when the case was considered by the deputy ombudsman she awarded a lower distress and inconvenience payment than had been put forward by the trustees. A cautionary tale perhaps; ombudsman awards can be lower than offers of settlement!

Rules of the scheme override misleading literature

Mrs B disagreed with the trustees' interpretation of the wording in her late husband's scheme booklet concerning the amount of lump sum payable to her as his widow. The trustees accepted the scheme literature issued to her husband could have been clearer and, through our investigator, offered £500 in compensation to resolve the complaint on condition that it was settled at that point. Mrs B rejected the offer and asked for the complaint to be reviewed by one of the ombudsmen. However, the deputy ombudsman found that Mrs B had been awarded the benefits to which she was entitled under the scheme rules and awarded her only £250 in compensation for the distress caused by the literature.

Delays which cause financial loss

We see a number of complaints involving delays, where the applicant says they have suffered financial loss directly arising from the delay. Where the ombudsman finds that there has been unacceptable delay leading to maladministration he or she will seek to put the party back in the position they would have been but for the delay. This issue often arises in transfer cases – as shown in the examples below.

A steer from the ombudsman

Mr C complained that there was an unnecessary delay in transferring his pension rights between his former employer's scheme and his new employer's scheme.

The transferring scheme's administrators took 33 weeks to provide transfer information following a request from the receiving scheme's administrators. By the time Mr C had accepted the transfer value and it had been paid to the receiving scheme, his pensionable salary had increased and the additional service he was credited with was less than previously quoted.

Before Mr C complained to us, the transferring scheme's administrators had said they wished to settle his complaint. However, they had been unable to agree on the level of compensation.

The ombudsman's preliminary view was that if the transferring scheme's administrators had provided the transfer information within a shorter, more reasonable timeframe, Mr C would have secured more service in the receiving scheme. The ombudsman indicated that he would direct the transferring scheme's administrators to pay the cost of securing the difference in the service credited in the receiving scheme.

When they received the ombudsman's preliminary view, the transferring scheme's administrators made Mr C a further offer on condition that he withdraw his complaint. Mr C wished to accept this offer and applied to the ombudsman to withdraw his complaint. The ombudsman consented.

Following industry guidance does not always mean no maladministration

Mr D complained that there had been delays in transferring funds from one self invested personal pension to another. As a result, he said that he had lost the opportunity to invest £500,000 in a two year savings bond offering compound interest at a fixed rate of 4.25% a year.

The provider of the transferring personal pension argued that there had been no unreasonable delay because it had acted within the timescale in the Association of British Insurers' "Statement of Good Practice: Pension Transfers" (later superseded).

The ombudsman upheld the complaint and decided that there had been an unreasonable delay of 17 days in the insurer carrying out two straightforward tasks – forwarding a correct transfer discharge instruction form and relaying disinvestment instructions. A lost policy document, which the provider, as the manager of the self invested personal pension, should have known the whereabouts of, also caused a delay. Although the overall transaction was within the Association of British Insurers' statement of good practice timescale the delays should not have occurred and were maladministration. The ombudsman agreed with Mr D's assessment of his loss and directed that the insurer should pay just under £20,000 into his new self invested personal pensions, and that they should pay Mr D £100 as further compensation for distress and inconvenience that their actions had caused.

Disagreements about who should receive benefits when someone dies

We regularly deal with cases where the dispute is about who to pay death benefits to. Our role is not to decide who should receive the benefit, but instead to look at whether the trustees properly considered the matter when they exercised their discretion to decide who to pay the benefits to. Where we decide that the trustees have not properly considered the matter we do not impose our own decision, but remit it back to the trustees to consider afresh. Here is an example:

Duty to make full enquiries before paying death benefits

Mr and Mrs E were in the process of divorce but Mr E died the day after the decree nisi was made. Mrs E received a widow's pension in accordance with the scheme rules, but the trustees exercised discretion to pay the lump sum death benefit to Mrs E. Mrs E complained that the trustees had not asked her to provide evidence before their decision was taken and that, essentially, if they had done so their decision might have been different.

The trustees confirmed that they did not seek information from Mrs E. They said there was evidence that Mr and Mrs E had agreed a clean break when divorcing, there was evidence of Mrs E's financial dependency on Mr E, and the payment of a widow's pension to Mrs E was a relevant factor in their deliberations.

The only "expression of wish" form completed by Mr E was in favour of Mrs E, but dated from when they were still together. The trustees said they considered this but it was for them to decide how much weight to give to it.

The deputy ombudsman considered that there were open lines of enquiry, most of which had come to light since Mrs E first complained. Additionally not enough had been done to verify financial information supplied on Mrs E's behalf. Consequently the question of whether the trustees' decision was perverse could not be properly addressed until those enquiries were completed. If the trustees had involved Mrs E in the first place, answers could have been obtained before the apportionment of benefit was decided. Also the trustees may not have asked themselves the right question about the relevance of the widow's pension. This was not a discretionary award, but the trustees relied on it to exclude Mrs E from the benefit which was payable at their discretion.

The deputy ombudsman remitted the decision to the trustees for fresh consideration.

Trustees' exercise of discretion

As well as in death benefit cases, trustees are often called on to exercise discretion in a number of other situations. As mentioned above our role here is restricted, we will look at whether the exercise of discretion has been properly exercised, not at the outcome of that decision. Here are a couple of examples of where we found that the trustees had not exercised their discretion properly:

Duty to review policy which influenced trustees' exercise of discretion

Mr F worked for a small council and due to his personal circumstances requested early payment of his local government pension on compassionate grounds. The council refused his request on the basis that his case did not meet the criteria stated in its policy. There was a statutory obligation to have a policy and to keep it under review.

Mr F challenged the decision because the council had not reviewed the policy since 1998.

The council said that at the time the decision was made the decision makers must have thought the policy appropriate. They also said that on review now it might be more restrictive. However, the ombudsman determined that the council should review its policy, including deciding what it would have been at the time Mr F made his application, and consider his application under that policy.

Dealing with surplus arising from pension exceeding HMRC's old limits

Mr G was the sole member of the scheme, although it allowed for other members to be admitted. When he retired his benefits were secured by an annuity policy in the name of the trustees with a high rate of increases in payment. If paid, the full annuity increases would have meant the annuity exceeded the (then) Inland Revenue limits. This resulted in the accumulation of a very large surplus which was held by the insurer.

Many years later (in 2007) Mr G sold his interest in the company. The policy was transferred into his name and the surplus paid to the company as trustee. The company decided to wind up the scheme and that the surplus should be returned to it. (A scheme rule allowed for a surplus in excess of revenue limits to be returned to the company in such circumstances). Mr G believed that he was entitled to the surplus.

The ombudsman found that there had been some confusion about the identity of the trustee; no account had been taken of the surplus on the sale of the company; and the rules had been changed in the meantime eliminating HMRC (as it by then was) limits so that the rule under which the company's decision had been made was no longer relevant. He concluded that the company (as constructive trustee and employer) had failed to reach a proper decision and directed the new trustees to make a fresh decision about how the money was to be dealt with.

Ill health and Injury Benefit Cases

Every year we receive a number of complaints from aggrieved applicants who have not been awarded an ill health pension or injury benefit they believe they are entitled to. To decide these complaints generally we need to look at the detailed rules under which any entitlement arises, and then consider the sufficiency of the decision making process, including the evidence considered. Here are some examples:

Overpayment of an ill health pension

Ms H, a teacher, started to receive her ill health retirement pension in 2000. About 10 months later, she was offered some part-time ad hoc teaching work on the basis that she would only need to work when she was well enough. Ms H accepted the offer and worked on that basis for small amounts of time (under 50 hours a year) for several years.

The regulations said that a pension was payable when it was established that a teacher was incapacitated, meaning permanently not fit to serve as a teacher. They also said that an ill-health pension would stop if a person was no longer incapacitated – which included being employed as a teacher. If a pension was stopped it could start again if the person was once more incapacitated.

The scheme became aware of Ms H's employment in January 2007 when membership became automatic for part timers unless they opted out. Ms H's ill health pension was stopped because she had worked as a teacher. The scheme told her that she had been overpaid by approximately £6,000 as it should have stopped when she first took up the work.

The ombudsman said that in almost all cases there would be no practical difference between returning to work as a teacher and no longer being incapacitated. However, the regulations should not automatically have resulted in Ms H's ill health pension being stopped solely because some work for a very small number of hours was undertaken. The ombudsman thought it unlikely that the test for Ms H's original incapacity included consideration of whether she could work as a teacher for a very small number of hours from time to time on a more or less casual basis, as she subsequently did. So, as it was applied, the test for whether the pension should continue was more restrictive than the test for whether it could be paid in the first place.

The ombudsman concluded that the scheme should have considered the amount of work that Ms H was undertaking and whether this meant she was fit to serve as a teacher (he noted a previous case in which he had expressed the view that serving as a teacher was not exactly the same as doing some teaching). He remitted the decision to the scheme and directed that, should the decision be that she was actually capable of serving as a teacher, the cost of repaying her overpaid pension should be shared by the scheme and Ms H's employer (who also failed to pass on relevant information to the scheme).

Trustees must ask themselves the right questions

Ms I had suffered a work related injury to her back. The scheme decided that the injury had not caused her a permanent loss of earnings ability, as required for payment of benefits, because the specialist treating her said it had accelerated a pre-existing back condition which would have caused later problems. The scheme's medical advisers took that to mean that Ms I's work related injury was not the cause of her loss of earnings ability after the point at which those problems would have arisen.

The specialist had not given an opinion on whether Ms I's work injury would have caused permanent damage in isolation. The ombudsman concluded that what would have happened without the injury was irrelevant. What would have happened without the underlying condition was relevant, but it had not been considered. The scheme's task was to assess whether, on the balance of probability, the injury had caused a permanent loss of earning ability. As the scheme had not made that decision, Ms I's case was remitted to them so that they could.

Misunderstandings and Misinformation

Another recurrent theme we see is where there has been some misunderstanding or misinformation about entitlements from a pension scheme. Where we find that the trustees, manager or an administrator are responsible for this – we will look to see how much reliance the recipient has placed on the information to their detriment. Here are a couple of examples:

Administrator's responsibility to provide correct quotations

Mr J was a deferred member of an occupational pension scheme. After leaving the scheme Mr J had received various benefit quotations from the scheme's pension provider in which they incorrectly applied fixed rate revaluation to his preserved benefits. Although there was some debate about it, the scheme rules provided for lower, statutory, revaluation.

Mr J was subsequently employed by a contractor to a large organisation. With a change in contractor, Mr J's employment was due to be TUPE transferred. In the lead up to the transfer, he obtained retirement quotations from the administrator of the scheme (the pension provider/insurer) which were still based on the wrong revaluation rate. He also asked for quotations from two other pension providers with which he held pensions. He decided not to transfer employment, but to cease work and live on his savings and the two other pensions until he reached age 60 when he would take the scheme pension.

The scheme was subsequently wound-up and Mr J's benefits were secured in a deferred annuity contract with the pension provider. It was then that Mr J was notified that his preserved benefits were, in fact, subject to statutory revaluation. The pension he could expect when he reached age 60 was, given certain assumptions, approximately 18% lower than he had been told previously. Mr J complained that he would not have left his job if he had known the correct revaluation basis.

Whilst the pension provider conceded that they had given Mr J incorrect information, they argued that the trustees of the scheme were ultimately responsible. They also argued that Mr J's decision to retire was not based solely on the incorrect quotations, and that he had failed to show that he had changed his position by making contractually binding commitments. They also said that Mr J had not changed his lifestyle after becoming aware of the correct position, and he had yet to take his preserved benefits despite now being over age 60.

The ombudsman concluded that the maladministration rested with the pension provider alone as they ought to have known the correct revaluation basis for the scheme. The ombudsman accepted that Mr J had meticulously planned and budgeted for his retirement and that the assumption that fixed rate revaluation applied to his preserved benefits in the scheme was material to his decision. It was irrelevant that Mr J had not yet drawn his pension.

The ombudsman decided that the drop in Mr J's income for life was significant (even taking into account Mr J's savings) and that it should not count against him that he had continued to enjoy holidays and leisure pursuits after he was notified of the correct position. On the balance of probability, the ombudsman found that Mr J would not have left his job if the pension provider had provided Mr J with a correct early retirement illustration before he retired.

Mr J's loss was the earnings he would have received if he had remained in his job to age 60. But this was at least equivalent in value to the drop in his expected pension from the scheme. As Mr J was prepared to accept the lower value difference in pension he should not be compensated for lost earnings. The Ombudsman directed the pension provider to apply fixed rate revaluation to his preserved benefits, issue a fresh policy document to Mr J confirming that this had been done and pay Mr J £300 for the inconvenience that he had experienced.

Incorrect information about widow's pension relied upon when making a will

Mrs K complained that her late husband's pension scheme provided him with an incorrect estimate of widow's pension some years before he died. Mrs K claimed that her late husband would have organised his finances differently and, in particular, made a different will – leaving more to her and less to other beneficiaries.

Additional evidence was sought from the solicitor who drew up the will. She confirmed her recollection of the actions and decision taken at the time the will was drafted. This, together with the other evidence available, strongly supported a view that the level of income Mrs K would receive on his death was a significant factor in her late husband's financial planning.

Although, in hindsight, Mrs K's late husband might have re-checked the position before drafting his will, as there was nothing obviously wrong with the information presented to him in 1994, there was no reason why he should not have relied on it many years later.

The ombudsman concluded that Mrs K's late husband's will showed that his first priority was to provide for his wife. It followed that, had he known the spouse's pension would be less, he would have allocated Mrs K more of the balance of his estate. The ombudsman directed that the scheme should pay £35,000 to cover the loss, together with £2,000 to take account of the delay in Mrs K receiving it.

An issue in the public eye

Many schemes have followed the Government's lead and changed pension increases to be based on the Consumer Prices Index (CPI) rather than the Retail Prices Index (RPI) in future. The issue has received a great deal of press coverage. Individual schemes will have their own rules, and different things will have been communicated to members in each case. In this case (which concerned a scheme with a direct link to the statutory increase rate) the complaint was more about what had been said than whether the change was permissible at all.

Pension increases changing from RPI to CPI

Mr L, a retired member of the armed forces, complained that the managers of his pension scheme should have told him when he left service that there was a possibility that in the future pension increases may be based on CPI rather than RPI.

Mr L said that the information he was provided with led him to believe that increases would be based on RPI, and this was the only way the literature could be read. He had retired at a relatively young age. The literature referred to an initial increase at age 55 being "to take account of all increases in the cost of living, as measured by the Retail Price Index, since your retirement" and said that his pension would "continue to be increased thereafter in line with the cost of living."

The ombudsman noted that the documents did not clearly say that pension in payment after age 55 was RPI linked and rejected an argument that there was a contractual entitlement.

The main argument was that Mr L had retired relying on RPI increases in future. The ombudsman concluded that it was unlikely that the specific index was critical. What Mr L expected was a pension that was protected against inflation and, whilst not taking sides in the debate about RPI and CPI, it could not be said that RPI increases would objectively protect his pension and CPI would not.

And some cases just turn on the facts

In the case below the ombudsman’s decision turned on the specific facts of the case. That is why we are always keen to ensure that we gather sufficient evidence before we reach a conclusion on the outcome of a case.

Abatement of a pension

The scheme provided that a person who took retirement at the normal retirement age of 60 and returned to employment would have their pension abated. The rule did not apply if they retired early.

Mr M decided to take advantage of this by taking a reduced pension from the scheme starting from the day before his 60th birthday. He planned to return to work shortly afterwards. He completed an application form designed for “actuarially reduced benefits” (as the alternative to “normal retirement benefits”) showing his last day of work as the day before his birthday and sent it to his employer, who forwarded it to the scheme, marking it urgent.

The scheme processed the form. However they decided that Mr M did not qualify for the early retirement benefits he had claimed, but instead for normal retirement benefits from the age of 60. The statement they sent to Mr B described the benefits as being actuarially reduced even though they were calculated and recorded as a normal retirement benefits.

Mr M returned to work as he had planned. The scheme later discovered he had been working as well as receiving his pension and abated his pension because it exceeded the earnings limit under the scheme.

The ombudsman upheld the complaint for two reasons. First a strict reading of the regulations did not preclude Mr B’s pension from being regarded as an actuarially reduced pension, in which case abatement would not apply. Second the regulations only provided for benefits to be paid if applied for. Mr M had applied for actuarially reduced pensions. He should not have been paid normal retirement benefits without an application. There was time to have told him that his application was invalid (if it had been) and for him to bring forward his last day at work.

The courts

Appeals

Determinations of the Pensions Ombudsman are subject to appeal to the appropriate court (depending on national jurisdiction) on a point of law.

Appeals outstanding at the start of the year	6*
New notices of appeal	12
Appeals heard/settled etc during the year	14
Appeals remaining at the year end	4

* amended from 5 shown in 2010/11 annual report

Participating in appeals

Our general policy is to participate in appeals either to assist the court or if there are wider consequences for the office, but not otherwise. The last time we had participated was in 2009.

In 2011/12 it was agreed that we could do so in an appeal which included, as a point of law, that the deputy ombudsman had wrongly decided to determine the case without an oral

hearing, despite one having been requested. We wanted to ensure that the court was aware of the factors we usually take into consideration before deciding whether to hear evidence at an oral hearing. And we wanted to provide background information on the number of requests we receive for oral hearings, the number of hearings held, and the consequences for the office if these increased significantly. In the event the matter did not go to trial as the parties settled their differences.

... and not participating

Last year we pointed out that there was a risk in not participating, in that points might arise with unexpected consequences. This year exactly that happened. But the outcome was a happy experience, illustrating greater flexibility on the part of the judiciary than perhaps might be thought traditional.

In accordance with the policy, we had decided not to participate in an appeal against a determination in which the deputy ombudsman had upheld a decision of the administrator of one of the pension schemes for the armed forces to refuse to allow the complainant/appellant to take his pension early on the grounds of ill health. The appellant represented himself in the appeal proceedings, before Mr Justice Warren. Judgment was reserved. After the hearing, as a result of the judge's questioning, although the matter had not been an issue in either the complaint to us or the appeal itself, it transpired that the decision making function had not been properly delegated to the administrator. Their decision could not stand and a fresh decision needed to be taken by a duly authorised body.

We were concerned that inference might be drawn from the, as yet unwritten, judgment that we should inquire into matters such as proper delegation of authority as a matter of course. We mentioned our concerns and were invited to bring them to the judge's attention, which we did, informally – indeed by email.

In his judgment Mr Justice Warren helpfully expressed the view that we were not to take on the burden of formulating and investigating new points which had not been raised (such as the authority of the administrator) unless they occurred to us (*Darren Scott Williamson v Service Personnel and Veterans Agency (1) Pensions Ombudsman(2) [2012]EWHC 778(Ch)*).

A long running case

We mentioned *Molyneux v Department for Children, Schools and Families [2010] EWHC 263(Ch)* last year. The appeal from the decision of the High Court was heard by the Court of Appeal in February 2012 (*[2012] EWCA Civ 93*). The appeal was dismissed and the decision of the High Court judge confirmed. The possibility of an appeal to the Supreme Court remains. If it gets there it will be the first time an appeal against a Pensions Ombudsman determination has gone to the final national court of appeal.

A common theme

In recent years a significant number of appeals have involved the issue of estoppel. Two cases recently were remitted back to us for reconsideration, with guidance as to the issues to focus on. A further determination was issued in relation to a case remitted back during this year (*Allen Grievson v Norman William Grievson (1) Calberto Limited (2) Brewin Dolphin Limited (3) [2011] EWHC 1367(Ch)*) and that second determination is now subject to an appeal as well. In another (unreported) case decided last year (*Wylam Harris v Calder Group Trustees Limited (1) Calder Group Industrial Materials Limited (2)*), we were directed to hold an oral hearing. The hearing has taken place and the matter will be determined shortly.

Costs

Deciding to issue an appeal is an important step as it can be a costly exercise. We do not always see the orders that are made following the outcome of an appeal but in one case where the appeal was not upheld and where we did see the order, an appellant representing himself was ordered to pay the respondents' costs of £18,000.

Judicial Reviews

We are susceptible to judicial review in relation to decisions we make as part of the investigation process – including whether to investigate at all.

Judicial Reviews outstanding at the start of the year	1
New Judicial Review applications	3
Judicial Reviews heard/settled etc during the year	1
Judicial Reviews remaining at the year end	3

Two of the three notices of judicial review applications in the year were challenges to our jurisdiction. Both the complaints to which they relate involve large pension schemes and the outcome of the litigation and of the complaints if they proceed potentially affects large numbers of members. One application (which is to be heard in the next few months) concerns a decision to accept a complaint for investigation and centres on whether the respondent to the complaint (the Government Actuary's Department) falls within our jurisdiction as an administrator in relation to its actions prior to April 2005.

The other application concerns a decision to proceed with the investigation of a complaint about the refusal to grant an injury award. Although the particular scheme allows for such initial decisions to be challenged in the High Court our present view is that this does not preclude an application to us. We also disagree as to whether the decision maker is an administrator for the purposes of our jurisdiction. The hearing is expected towards the end of the year.

Included in the number of judicial review applications received this year is a small claims summons issued in the Sheriff's Court in Scotland against a decision which we took not to accept a complaint for investigation. We will be resisting the claim and – as importantly – also challenging the procedure adopted.

Judicial review and appeal

In one case involving the Police Pension Scheme, an appeal was issued against our determination (upholding a decision in relation to an ill health application) at the same time as an application for judicial review of the original decision (i.e. not our decision). We were not an active party in either case. Both sets of proceedings raised interesting and important issues (for example as to the overlap of jurisdiction between this office and the courts and time limits for applying for judicial review) but as the parties reached agreement before the cases came to court there were no judicial pronouncements on them.

Section 150(7) application

We mentioned in the 2010/11 annual report that, for the first time in the office's history, the power under section 150 (7) of the Pension Schemes Act 1993 was to be used. The question of law that has been referred to the court is whether the principles discussed in the Court of Appeal case of *Edge v Pensions Ombudsman [1999] All ER(D) 904* apply to the circumstances of a complaint referred to us. In particular whether, having regard to the interests of third parties who may be affected by the outcome of the complaint, we must decline jurisdiction to investigate and determine the complaint or whether we retain a discretion to deal with it. The proceedings are under way and the hearing is due to take place later this year.

2.2 Pension Protection Fund Ombudsman casework review

What we do

Reviewable matters

We can review decisions made by the Board of the PPF, but only after they have been reviewed by the Board and then considered by their Reconsideration Committee. Almost all of the referrals to us concern the amount of the levy. How the calculation has been carried out is a matter we can deal with. The general calculation method is not.

PPF maladministration

We can investigate and determine complaints of maladministration on the part of the PPF. For example this year we have been asked to investigate complaints of delay and failing to respond to correspondence.

Financial Assistance Scheme (FAS) appeals

We also have jurisdiction to determine appeals against decisions made by the PPF, as scheme manager of the FAS, relating to eligibility to receive compensation. FAS appeals can be subdivided further into two main categories: whether a scheme is eligible to be accepted by the FAS, and whether a member has received the correct entitlement. This year all the appeals we received related to individual entitlements.

Our workload

Referrals in 2011/12

	Received	Accepted for investigation	Not accepted for investigation	Decision whether to accept outstanding
Reviewable matter	15	11	3	1
PPF maladministration	4	1	3	0
FAS appeal	5	5	0	0
Total	24	17	6	1

The number of new cases was significantly down on 2010/11, when there were 41. The reduction is in levy related referrals. Very few of these were upheld in previous years – and it may be that schemes and advisers have a better feel for what is likely to succeed and what is not.

In all but two of the cases where we declined jurisdiction it was because the complainant needed to raise their complaint with the PPF first.

Case flow

	2011/12
Open at start of year	24
New	24
Completed	31
Open at end of year	17

Planned changes

Currently we do not have jurisdiction to deal with complaints of maladministration against PPF as scheme manager of the FAS. (The reason is that DWP was the first scheme manager and was within the Parliamentary Ombudsman's jurisdiction). The position now looks anomalous because we *can* deal with very similar complaints against PPF in relation to the PPF itself. So DWP has consulted on draft regulations (The Financial Assistance Scheme Regulations 2011) to make our jurisdiction consistent and we expect them to come into force during 2012/13.

One of the recommendations of the 2010 Cabinet Office Review of Public Bodies was that the separate statutory offices of Pension Protection Fund Ombudsman and Pension Ombudsman (and respective deputies) should be combined. The Public Bodies Act 2011 gives Ministers power to do this. Since the two offices are already run as one, there will be few direct operational consequences. However, there will be considerable work in making sure the unified legislation is effective. The timing of the actual merger is as yet uncertain, but will not be before April 2013.

Case studies

All of the cases determined in the year were levy related. The PPF bases the risk of the scheme sponsor failing (and hence its pension scheme going into PPF) on Dun & Bradstreet's failure score. On occasion referrals are about the correctness of Dun & Bradstreet's assessment – but that is not a matter within jurisdiction. The following two cases are at the margin between Dun & Bradstreet and the PPF. The first was on one side of the line and succeeded, the second was on the other, and did not.

PPF risk-based levy calculated by reference to the wrong company

The scheme trustees referred a reviewable matter to us relating to the way that the risk-based levies had been calculated for 2008/09 and 2009/10.

Dun & Bradstreet had provided the PPF with a failure score for a company identified by their reference number held on the "Exchange" system managed by the Pensions Regulator. It was not the proper employer in relation to the scheme; it was a related non-participating company. The trustees said they had not supplied the Dun & Bradstreet reference number.

When the PPF were asked to review both their levy calculations for 2008/09 and 2009/10 they had concluded that the data errors originated from the scheme's data submissions. They also concluded that the failure score provided by Dun & Bradstreet had been supplied in the normal course of their business (as the levy calculation process required), albeit that it belonged to a different company.

The PPF Board's Review Committee had considered whether the PPF should exercise discretion to review the levies on the grounds that they had been calculated by reference to information which was incorrect in a material respect. The Committee concluded that the information used to calculate the levies was not incorrect in a material respect because it was based on the employer information held on the relevant scheme return.

The trustees requested a PPF Reconsideration Committee to review their case and pointed out that they had been unable to correct the data held on the Exchange system despite their attempts to do so. The Reconsideration Committee concluded that the matter of the precise data used in the calculation should be more properly taken up via Dun & Bradstreet's appeal process. They also concluded that the information used to calculate the levies was not incorrect in a material respect because there was no basis on which to find that third party error had affected the Exchange system or that the relevant scheme return data had not been used.

In the course of our investigation of this referral, the PPF told us that they had carried out further investigations and concluded that the scheme had not entered the incorrect data. Therefore, they said they would review the 2008/09 and 2009/10 levies. The ombudsman concluded that, notwithstanding this, he was required to determine the referral, under Regulation 6 of The Pension Protection Fund (Referral of a Reviewable Matter to the PPF Ombudsman) Regulations 2005, and that it was in both the scheme's and the public interest that he do so.

The ombudsman concluded that the PPF reconsideration committee had not reached their decision correctly when they determined that the information by reference to which the levies had been calculated was not incorrect in a material respect. Section 175(2) calls for the risk-based levy to be assessed by reference to the likelihood of an insolvency event occurring in relation to the employer in relation to a scheme. Since the purpose of the PPF's Determination was to raise the levy assessed in that way, the effect of applying the Determination should not be to produce an assessment of the likelihood of a different company's insolvency. The ombudsman concluded that, on any reading of the phrase "incorrect in a material respect", a failure score relating to a different entity could not be anything other than incorrect.

The ombudsman remitted the matter to the PPF.

Charity accounts and the charity's failure score

The case concerned the calculation of the risk-based levies for the year 2008/09 for a charity. For the levy years 2006/07 and 2007/08, the failure score assigned to the charity had been 100. In January 2008, the score dropped to 87. This was because the accounts held by Dun & Bradstreet were by then over three years old and considered by them to be obsolete. Charities are not required to file accounts with Companies House, but do file accounts with the Charity Commission. At the time, Dun & Bradstreet did not routinely collect accounts data from the Charity Commission. Charities were able to submit accounts directly with Dun & Bradstreet if they wanted them taken into account in the failure score. The charity had previously submitted accounts to Dun & Bradstreet. Following the reduction in its failure score, the charity submitted up to date accounts to Dun & Bradstreet and the failure score was increased to 100. However, Dun & Bradstreet informed the charity that, because they had submitted the accounts after 31 March 2008, it would not be possible to use the revised failure score for the 2008/09 levy calculation. The lower failure score resulted in a risk-based levy of £174,000 compared to £9,000 in the previous years. The charity stated that it had been monitoring its failure score prior to its reduction and had assumed that the reduction was due to a county court judgment which was cancelled on 20 March 2008.

The Deputy PPF Ombudsman found that the levy had been calculated in accordance with the PPF's 2008/09 determination. However, she went on to say that the case was really more about the procedure for calculating the levy, which the applicant had argued was unfair. The Deputy PPFO said that arguments put forward by the applicant were compelling, but that its case had been undermined by the fact that it had previously supplied accounts to Dun & Bradstreet and that it said it had been monitoring its failure score. She also noted that it had been widely publicised that Dun & Bradstreet did not obtain accounts from the Charity Commission and, therefore, it was not reasonable to assume that they would obtain accounts for a charity in the way that they did for a company. The Deputy Ombudsman accepted that the charity might not have been aware that Dun & Bradstreet treated accounts as obsolete after three years, but noted that it was aware that they did not have up to date accounts. She concluded that the charity could have reasoned that, the older information became, the less reliance Dun & Bradstreet were likely to place on it. The Deputy Ombudsman also commented that, given the importance the charity had placed on its failure score, it could have checked the reason for the reduction rather than assume that it was caused by the county court judgement.

The Deputy Ombudsman also considered whether and to what extent the PPF was bound by its own determination. She took the view that Section 175(5) of the Pensions Act 2004 did not prohibit the PPF from including in its determination any level of discretion as to how the levy was to be calculated. The Deputy Ombudsman also found that there was no conflict with Section 213 of the Act if she were to find that the PPF's determination contained a discretion for it to review a levy.

The applicant had argued that there was an underlying discretion arising out of the fact that the PPF is a public body. The Deputy Ombudsman found that there was a risk that the PPF could be calculating a levy unfairly if it considered itself too bound by the terms of its determination and the information it received from Dun & Bradstreet, which was not a public body and not responsible for the levy calculation under the Act. However, the Deputy Ombudsman concluded that, whilst she found aspects of the way the charity had been treated uncomfortable, she could not conclude that there was any requirement for the PPF to take action.

2.3 Our people

Staff levels

On 1 April 2011 we had 34.95 full time equivalent staff. At 31 March 2012 the number was 35.07, including one on long term leave. (The numbers exclude the ombudsman and deputy ombudsman, who are not strictly employees.)

We had one significant staffing issue in the year. It related to a group of staff who had, for historical contractual reasons, been treated as being on loan from DWP although they had always worked for the Pensions Ombudsman. They had to decide whether to end their loans and “return” to DWP or switch to Pensions Ombudsman contracts of employment. The upshot was that in October we lost three investigative staff and one member of the business support team. There were wider consequences in that the whole matter was unsettling, whether for those who went or stayed, and even for those of their colleagues who did not have a choice to make.

We successfully recruited to replace the investigative staff. There was however a gap of about three months before we were back to complement. Since May 2010 it has been necessary to look first across the civil service when recruiting. The exercise produced no appointments so we widened the search. Our new colleagues come from a range of backgrounds and have settled in well.

Another success has been a decision to take on short term support from the pool of voluntary advisers with the Pensions Advisory Service. The idea was that they would be able to “hit the ground running”. We found two well qualified advisers who did just that.

Our business support team is small – starting the year with four people, one of whom went to DWP, as mentioned above. With such a small team, there are risks in terms of resilience and succession so we took the opportunity, with the support of our internal auditors, to review strengths and weaknesses of the team. Towards the end of the year we decided to strengthen it, particularly in relation to human resources, though the redefined post was vacant at the end of the year (and still is). The below strength team has put in a superb effort to cover for the vacancy, providing normal service throughout.

Pay

The pay award in 2011/12 counted for us as the second year of the public sector two year pay freeze. Consistently with the terms of the freeze the only consolidated awards went to those earning below £21,000 a year. There were modest non-consolidated awards for those with exceptional performance in the year to 31 March 2010. The consolidated and non-consolidated awards taken together represented 1.06% of payroll.

Sickness

Sickness levels remained pleasingly low at 3.2 days a head on average (3.3 in 2010/11).

Staff satisfaction

We ran our second staff satisfaction survey in 2011/12 with results published at the end of the year. On the whole the results were encouraging – and an improvement on the previous survey the year before. In particular responses connected to pride in the organisation, understanding its aims, personal accomplishment and motivation were good. The areas needing particular

work were teamwork and confidence in change. And a small but worrying number of people said they had experienced bullying whether by colleagues or customers. We will be acting quickly to try to resolve that.

Consultation and negotiation

We have a staff communication forum, with elected members. It met formally twice in the year. It canvassed and brought together views on a number of matters. For example, we have as a result of its input made modifications to the performance management framework we introduced in 2010/11.

During the year we received an application for recognition from the Public and Commercial Services Union. We entered into discussions, jointly assisted by ACAS, which were ongoing at the year end.

2.4 Other management activities

IT

Our IT (software and hardware) was last refreshed in 2007. Previous annual reports have highlighted its inadequacies and the plans for replacement. Progress with those plans has been slower than we hoped and they have still not borne fruit – but there is at last blossom on the bough.

We began 2011/12 evaluating bids, following an earlier invitation to tender. However it soon became evident that the necessary capital investment would be higher than we had budgeted for.

We asked for additional capital from DWP. In August 2011 we were told that it was available. In the meantime we had extended our existing contract with Atos Origin (originally Siemens, but transferred due to business changes) to October 2012. The contract is actually between DWP and Atos Origin for historical reasons.

We entered into discussions with Specialist Computer Centres plc (SCC) to provide us with an IT Managed Service for a five year term using an established central government procurement framework.

We have also chosen iizuka software technologies ltd (iizuka) to provide our casework management system (CMS), electronic documents and records management system (EDRMS) and management information (MI) solution. SCC has entered into a contract with iizuka over the five year term.

So 2012/13 begins with contracts signed and us finally entering the development stage of our IT project. In 2012/13 we expect our new CMS, EDRMS and MI tool to go live, SCC will replace Atos Origin as our new managed service provider, and we will undergo a hardware refresh employing cloud technology.

Quality Management

This year we added an overarching case review to the checks we introduced last year which look at quality at various points in the process. Under the new process we take a small sample of completed investigations and review the quality of the service we have provided from start to finish.

The previously established checks continue to provide us with valuable assurance that we are meeting the “softer” standards (not measurable through management information) we have set for ourselves, in part based on feedback from users of our service. They look at things like how we handle first contact, telephone calls and keeping in touch with parties. They also provide opportunities for us to continually assess the possibilities for improvement.

The case review check results are not yet sufficiently meaningful statistically to be used for assurance purposes, owing to the small number of cases included. However we have been very pleased, not only with the results, but also with how open our staff have been to their work being reviewed in this way and their commitment to continuous improvement generally.

Working Groups

We do not have the specialist areas (communications, knowledge management and so on) that larger organisations might. We take a benefit from that, in that it gives an opportunity for

wider involvement to staff whose main job is in casework or general business support. We run a number of working groups which have considerable freedom to make recommendations and take decisions. The key permanent groups are:

- accessibility (which includes website and communications)
- change management
- knowledge management
- training and development
- quality management

There can also be shorter term groups for specific projects. For example this year a “Pool Strategy Group” reviewed how, without extra resource, we could make inroads into the “pool” of investigations that are waiting to be allocated to an investigator (which can be three to four months). It is our most significant sticking point. Its size has not changed significantly over time – reflecting that the intake of cases has broadly matched the outflow.

A number of the group’s recommendations were accepted: for example, collecting information earlier whilst the case is in the queue and increased specialisation among investigators – both aimed at speeding up throughput.

Recognising that their recommendations would only make a very gradual impact, the group also considered what extra resource would be needed to deal with the matter quickly – about four extra caseworkers for a year.

Liaison

“Relationship managers”

In 2010/11 we introduced a new arrangement with some of the larger schemes we deal with most (the Armed Forces Pension Scheme, the National Health Service Pension Scheme, the Principal Civil Service Pension Scheme, and the Teachers’ Pension Scheme) designed to oil the wheels. We want to maintain an environment of mutual understanding and respect – to help make us all more effective. So we have designated some of our investigators as “relationship managers” and they are responsible for the two way flow of information.

Having had this arrangement in place for a year we met with all the schemes involved at the same time to review how it was working in practice. We were delighted to hear that the schemes felt they really had derived some benefit from the arrangement. In particular they appreciated the increased level of contact, and our willingness to discuss generic issues with them. In turn we found it helpful to hear from the schemes about general issues likely to produce future complaints.

We are currently looking into ways to include within this arrangement some of the other public sector schemes that are not centrally managed.

There is a balance to be struck. The arrangement is not a forum for discussion of actual cases behind the scenes. Our independence and the perception of it are critical to our work.

Industry liaison group

Our industry liaison group, which is independently run, and meets roughly twice a year also continues to provide us with valuable feedback. Throughout the year we discussed a range of topics, including our corporate plan and annual report. We also appreciate having the opportunity to use the group as a sounding board to discuss new initiatives.

Other bodies

Other bodies with whom we engage on operational and or strategic matters include the Pensions Advisory Service, the Pensions Regulator, the Financial Ombudsman Service and the British and Irish Ombudsman Association.

Surveys

Website

We ran a survey of users of our website for several months. On the whole those who responded did so favourably. They gave us some things to think about around accessibility and content – in particular the apparent focus on people thinking about making a complaint and the need for more guidance on the substance of complaints.

Customer satisfaction

We also ran a survey of people who had made an enquiry or brought a complaint. Once again, it was broadly favourable. Quite predictably, the main area of dissatisfaction (apart from the outcome of the case) was the length of time we took.

Both surveys were completed in the second part of the year. We will be considering what we need to do in response during 2012/13.

Key performance indicators

We set performance indicators to run alongside our targets for case throughput. They are set out, together with the year end position in each case, in section 2.1.

Risks and uncertainties

We have an established risk strategy and we set and review risk at operational and strategic levels. Key strategic risks we monitored in the year concerned:

- stakeholder relationships;
- impact of externally imposed financial and management constraints;
- adequacy of corporate governance, management and financial controls;
- adequacy of financial resources;
- legal responsibilities;
- accuracy of case input and throughput predictions;
- quality of decision making on cases;
- success of IT procurement project;
- business continuity;
- data security.

Complaints about us

Complaints about the service we provide, rather than the outcome of a case, are dealt with under our published internal complaints procedure.

Very often what a party is really upset about is the outcome of their pensions case. So they may complain about, for example, the view the ombudsman has taken of the evidence, the reasons for the decision or the decision itself. But because decisions of the ombudsmen are final and binding and cannot be overturned except on appeal such complaints cannot be dealt with under our internal complaints procedure.

The internal complaint route is also not appropriate for complaints which involve service issues inextricably linked with the outcome of a final determination – for example an allegation the investigator did not present matters to the ombudsman fully or properly.

We try to deal with service complaints as informally as possible – usually at line management level first. But where a party remains dissatisfied they can escalate their complaint to our casework director, and where the complaint is about the casework director it will be dealt with by the ombudsman or deputy ombudsman. We will always provide a written response and, where appropriate, let the party know of any action that has been taken as a result.

This year we recorded 33 complaints as being made under our internal complaints procedure. Last year we recorded 15. The increase was owed to technical reasons. We have changed the way we record complaints, so now included in the number are service complaints that are not capable of being dealt with under the internal complaints procedure because they go to the decision itself.

Of the 33 complaints, only nine were capable of being dealt with under our internal complaints procedure because they related to service issues alone. Of the nine, in one case we accepted that the service we had provided was below the standard that could reasonably have been expected. That was because the investigator had not progressed the case in a timely way. We apologised and arranged for the case to be moved to another investigator who could give it immediate attention. In a number of the other complaints the time taken to deal with the case was also mentioned. However we took the view that the time taken was not unreasonable, even though there are bottlenecks in our processes that, resources permitting, we would like to eliminate.

On service related matters (but not the outcome of cases) we are subject to the jurisdiction of the Parliamentary Ombudsman. We are not aware of any complaints that are subject to investigation by her office.

Disclosures

Section 3: Disclosures

3.1 Statutory background

The Pensions Ombudsman is a statutory commissioner appointed by the Secretary of State for Work and Pensions under section 154 of the Pension Schemes Act 1993. The jurisdiction and powers of the Pensions Ombudsman are derived from Part X of the Pension Schemes Act 1993 and regulations thereunder.

The Ombudsman for the Board of the Pension Protection Fund (the Pension Protection Fund Ombudsman) is a statutory commissioner appointed by the Secretary of State for Work and Pensions under section 209 of the Pensions Act 2004. The jurisdiction and powers of the Pension Protection Fund Ombudsman are contained in sections 209 to 218 of the Pensions Act 2004 and regulations thereunder.

The respective legislation also provides for the appointment by the Secretary of State for Work and Pensions of a Deputy Pensions Ombudsman and a Deputy Ombudsman for the Board of the Pension Protection Fund (Deputy Pension Protection Fund Ombudsman).

At present the postholder of Pensions Ombudsman also holds the post of Pension Protection Fund Ombudsman. Similarly, the Deputy Pensions Ombudsman also holds the post of Deputy Pension Protection Fund Ombudsman.

The Government has announced, under the Public Bodies Reform Agenda that the separate functions of the pensions Ombudsman and the Pensions Protection Fund Ombudsman are to be merged. The exact date of the merger is as yet uncertain.

3.2 Other interests

Neither the Pensions Ombudsman nor the Deputy Pensions Ombudsman had any significant external interests that conflicted with their management responsibilities.

3.3 Accounting and audit

The accounts have been prepared under a direction issued by the Secretary of State for the Department for Work and Pensions in accordance with Section 145(8)–(10) of the Pension Schemes Act 1993 and section 212A of the Pensions Act 2004 as inserted by the Government Resources and Accounts Act 2000 (Audit of Public Bodies) Order 2008.

There are no significant future net liabilities that will be financed by grant-in-aid.

Details of the treatment of pension liabilities in the accounts can be found in the Remuneration Report, in the accounting policies and note 3.

The office has a policy of paying invoices within 10 days and monitors compliance with it. The process is such that invoices are in fact paid within a maximum of five working days, unless there is a query on the invoice.

The auditors did not receive any remuneration for non-audit work.

3: Disclosures

So far as the Pensions Ombudsman is aware, there is no relevant audit information of which the auditors are unaware, and the Pensions Ombudsman has taken all the steps that he ought to have taken to make him aware of any relevant audit information and to establish that the auditors are aware of that information.

A handwritten signature in black ink, appearing to read 'Tony King', with a large, stylized flourish at the end.

Tony King
Pensions Ombudsman
Pension Protection Fund Ombudsman
18 June 2012

Financial Statements

Section 4: Financial Statements

4.1 Remuneration report

Remuneration policy

In accordance with Sections 145 and 145A of the Pension Schemes Act 1993, the current and future remuneration of the Pensions Ombudsman and the Deputy Pensions Ombudsman is determined by the Secretary of State for Work and Pensions. The current and future remuneration of the Pension Protection Fund Ombudsman and Deputy Pension Protection Fund Ombudsman is determined by the Secretary of State in accordance with Sections 209(4) and 210(6) of the Pensions Act 2004. For the year 2010/11 (paid in the accounting year) the Ombudsman's payments included a bonus element of up to 10% of salary as assessed by the Departmental Steward on behalf of the Secretary of State.

Service contracts

The length of service contracts is determined by the Secretary of State for Work and Pensions. Tony King was reappointed for a further 3 years on 1 September 2010. Jane Irvine was appointed on a part time basis for 3 years on 18 November 2009.

Name	Dates of appointment	Unexpired term	Notice period
Tony King	1 September 2007	1 year 5 Months	6 months from employee
Jane Irvine	18 November 2009	0 years 7.5 months	6 months from employee

Each appointment may be terminated early by employer on the following grounds:

1. Misbehaviour
2. Incapacity
3. Bankruptcy or arrangement with creditors.

Any decision to remove on one or more of the above three grounds will be taken by the Secretary of State with the concurrence of the Lord Chief Justice. No compensation will be paid if the appointment is terminated on any of the grounds set out above. Should the appointment be terminated on the basis of misbehaviour one month's notice will be given. Where conduct is so serious as to warrant immediate removal from office pay in lieu of notice will be paid.

The notice periods shall not prevent the Ombudsman, Deputy Ombudsman or Secretary of State waiving the right to notice or the Ombudsman or Deputy Ombudsman accepting a payment in lieu of notice.

Salary and pension entitlements

The following sections provide details of the remuneration and pension interests of the Pensions Ombudsman and Deputy Pensions Ombudsman.

The information in these tables is subject to audit.

Remuneration

	2011/12			2010/11		
	Salary (£000)	Non Consolidated Performance Pay (£'000)	Benefits in Kind (to nearest £100)	Salary (£000)	Non Consolidated Performance Pay (£'000)	Benefits in kind (to nearest £100)
Tony King	£120 – £125	£10 – £15*	–	£120 – £125	£5 – £10**	–
Jane Irvine	£30 – £35	–	–	£30 – £35	–	–
Band of Highest Paid Director's Total Remuneration	£135 – £140			£130 – £135		
Median Total Remuneration	£35			£35		
Ratio	4			3.85		

* Paid in 2011/12 but earned in 2010/11

** Paid in 2010/11 but earned in 2009/10

Reporting bodies are required to disclose the relationship between the remuneration of the highest paid director in their organisation and the median remuneration of the organisation's workforce. The Pensions Ombudsman does not have any Directors. The banded remuneration of the highest paid office holder in the financial year 2011/12 was £135,000 – £140,000 (2010/11 £130,000 – £135,000). This was 4 times (2010/11: 3.85) the median remuneration of the workforce which was £35,000 (2010/11: £35,000).

No employees received remuneration in excess of the highest paid office holder.

Total remuneration includes salary and non consolidated performance related pay. It does not include employer pension contributions and the case equivalent transfer values of pensions.

Pension Benefits

	Accrued pension at age 60 as at 31/3/12 (£'000)	Real increase in pension at age 60 (£'000)	CETV at 31/3/12 (£'000)	CETV at 31/3/11 (£'000)	Real Increase in CETV (£'000)
Tony King	45 – 50	0 – 2.5	946	848	23

Related lump sum at 31/3/12 and at pension age is nil.

Jane Irvine does not receive any pension benefits as a result of her appointment.

Cash Equivalent Transfer Values

A Cash Equivalent Transfer Value (CETV) is the actuarially assessed capitalised value of the pension scheme benefits accrued by a member at a particular point in time. The benefits valued are the member's accrued benefits and any contingent spouse's pension payable from the scheme. A CETV is a payment made by a pension scheme or arrangement to secure pension benefits in another pension scheme or arrangement when the member leaves a scheme and chooses to transfer the benefits accrued in their former scheme. The pension figures

shown relate to the benefits that the individual has accrued as a consequence of their total membership of the pension scheme, not just their current service in a senior capacity to which disclosure applies. CETVs are calculated in accordance with The Occupational Pension Schemes (Transfer Values) (Amendment) Regulations and do not take account of any actual or potential reduction to benefits resulting from Lifetime Allowance Tax which may be due when pensions benefits are taken.

The real increase in the value of the CETV

This is effectively the element of the increase in accrued pension funded by the Exchequer. It excludes increases due to inflation and contributions paid by the individual and is worked out using common market valuation factors for the start and end of the period.

Civil Service Pensions

Pension benefits are provided through the Civil Service pension arrangements. From 30 July 2007, members may be in one of four defined benefit schemes; either a 'final salary' scheme (**classic, premium or classic plus**); or a 'whole career' scheme (**nuvos**). These statutory arrangements are unfunded with the cost of benefits met by monies voted by Parliament each year. Pensions payable under **classic, premium, classic plus** and **nuvos** are increased annually in line with changes in the Retail Prices Index (RPI). Members who joined from October 2002 could opt for either the appropriate defined benefit arrangement or a good quality 'money purchase' stakeholder pension with a significant employer contribution (**partnership** pension account).

Employee contributions are set at the rate of 1.5% of pensionable earnings for **classic** and 3.5% for **premium, classic plus** and **nuvos**. Benefits in **classic** accrue at the rate of 1/80th of final pensionable earnings for each year of service. In addition, a lump sum equivalent to three years' pension is payable on retirement. For **premium**, benefits accrue at the rate of 1/60th of final pensionable earnings for each year of service. Unlike **classic** there is no automatic lump sum. **Classic plus** is essentially a hybrid with benefits for service before 1 October 2002 calculated broadly as per **classic** and benefits for service from October 2002 worked out as in **premium**. In **nuvos** a member builds up a pension based on his pensionable earnings during their period of scheme membership. At the end of the scheme year (31 March) the member's earned pension account is credited with 2.3% of their pensionable earnings in that scheme year and, immediately after the scheme year end, the accrued pension is updated in line with RPI. In all cases members may opt to give up (commute) pension for lump sum up to the limits set by the Finance Act 2004.

The partnership pension account is a stakeholder pension arrangement. The employer makes a basic contribution of between 3% and 12.5% (depending on the age of the member) into a stakeholder pension product chosen by the employee from a panel of three providers. The employee does not have to contribute but where they do make contributions, the employer will match these up to a limit of 3% of pensionable salary (in addition to the employer's basic contribution). Employers also contribute a further 0.8% of pensionable salary to cover the cost of centrally provided risk benefit cover (death in service and ill health retirement).

The accrued pension quoted, is the pension the member is entitled to receive when they reach pension age, or immediately on ceasing to be an active member of the scheme if they are already at or over pension age. Pension age is 60 for members of **classic, premium** and **classic plus** and 65 for members of **nuvos**.

Although the PCSPS is unfunded, employer contributions are set at the level of contributions that would be paid by private sector employers to pension schemes for their employees. For 2011/2012, employers' contributions were payable to the Principal Civil Service Pension Scheme in the range 16.7% to 24.3% of pensionable pay. From 1 April 2012 the percentages remain the same but the salary bands are as follows:

Band	2011-2012		From 1 April 2012	
	Salary Band (£)	Rate of charge	Salary Band (£)	Rate of charge
Band 1	21,000 and under	16.7%	21,500 and under	16.7%
Band 2	21,001 to 43,500	18.8%	21,501 to 44,500	18.8%
Band 3	43,501 to 74,500	21.8%	44,501 to 74,500	21.8%
Band 4	74,501 and above	24.3%	74,501 and above	24.3%

Further details about the Civil Service pension arrangements can be found at the website www.civilservice-pensions.gov.uk

Further staff cost disclosures are included in the notes to the accounts staff note 3. The financial disclosures within the Remuneration Report are subject to audit.



Tony King
Pensions Ombudsman
Pension Protection Fund Ombudsman
18 June 2012

4.2 Statement of Accounting Officer's responsibilities

Under Section 145(8) of the Pensions Scheme Act 1993 and Section 212A of the Pensions Act 2004, the Secretary of State for Work and Pensions (with the consent of the Treasury) has directed the Pensions Ombudsman and Pensions Protection Fund Ombudsman to prepare for each financial year a statement of accounts in the form and on the basis set out in the Accounts Direction. The accounts are prepared on an accruals basis and must give a true and fair view of the state of affairs of the Pensions Ombudsman and Pension Protection Fund Ombudsman and of its income and expenditure, recognised gains and losses and cash flows for the financial year.

In preparing the accounts, the Accounting Officer is required to comply with the requirements of the Government Financial Reporting Manual and in particular to:

- observe the Accounts Direction issued by the Secretary of State for Work and Pensions, including the relevant accounting and disclosure requirements, and apply suitable accounting policies on a consistent basis;
- make judgements and estimates on a reasonable basis;
- state whether applicable accounting standards as set out in the Government Financial Reporting Manual have been followed, and disclose and explain any material departures in the accounts; and
- prepare the accounts on a going concern basis.

The Accounting Officer of the Department for Work and Pensions has designated the Pensions Ombudsman as Accounting Officer of the Pensions Ombudsman and Pension Protection Fund Ombudsman. The responsibilities of an Accounting Officer, including responsibility for the propriety and regularity of the public finances for which the Accounting Officer is answerable, for keeping proper records and for safeguarding the Pensions Ombudsman and Pension Protection Fund Ombudsman's assets, are set out in the Non-Departmental Public Bodies Accounting Officers Memorandum and in Managing Public Money issued by the Treasury.

4.3 Governance Statement

The Pensions Ombudsman is a statutory commissioner appointed by the Secretary of State for Work and Pensions. He is also the Accounting Officer.

Details of the remuneration paid to the Pensions Ombudsman can be found in the remuneration report.

Governance Framework

Under the terms of a Framework Document the Accounting Officer is accountable to DWP. The present Framework Document was revised in 2009/10. The DWP receives reports on performance, finance and risk at quarterly accountability meetings.

The Audit Committee

The Audit Committee consists of two independent members, Stuart Weatherly (Chair) (appointed January 2008) and Roy Field (March 2010). They are unpaid volunteers, with Board level experience in public bodies. They are appointed by the Accounting Officer. Their appointment is not for any fixed term.

The Casework Director, Business Manager and other staff, the external auditors (National Audit Office), the internal auditors (DWP) and a DWP observer attend meetings by invitation.

The Committee's role is to advise the Accounting Officer on the strategic processes for risk, control and governance;

- the accounting policies, the accounts, and the annual report of the organisation, including the process for review of the accounts prior to submission for audit, levels of error identified, and management's letter of representation to the external auditors;
- the planned activity and results of both internal and external audit;
- adequacy of management response to issues identified by audit activity, including external audit's management letter;
- assurances relating to the corporate governance requirements for the organisation;
- proposals for tendering for either Internal or External Audit services or for purchase of non audit services from contractors who provide audit services;
- anti fraud policies, whistle blowing processes, and arrangements for special investigations.

The Committee met four times during 2011/12. Stuart Weatherley and Roy Field attended all four meetings.

Corporate Governance

We are not a listed company and we do not have a board. We are not bound by the Corporate Governance Code but where it is applicable we have complied. Our internal governance arrangements are described below.

Management Team

Membership

Pensions Ombudsman
Casework Director
Business Manager
Team Leaders

Purpose:

- provide leadership;
- make decisions on all significant matters relating to how the organisation works to meet its statutory responsibility to deal with pension complaints and disputes (except where the matter has been reserved to the Pensions Ombudsman or Deputy Pensions Ombudsman); and
- support the Accounting Officer in ensuring that corporate governance arrangements and internal controls are effective.

Meetings are designated as either Strategic Management Forum meetings or ordinary Management Team meetings.

Strategic Management Forum meetings are held not less than quarterly and deal with strategic issues, typically being those which may:

- affect medium to long term plans and forecasts;
- alter the way we approach our work;
- change the perception of our ability to provide our services;
- have significant budgetary implications;
- have a significant impact on corporate governance arrangements;
- result in qualified audit;
- have significant consequences for stakeholders.

Management Team meetings are usually held monthly and deal with operational matters, typically being those which may:

- affect immediate (ie month to month) plans and forecasts;
- affect the wellbeing of our staff;
- cause disruption to day to day effectiveness of the operation;
- cause embarrassment or localised dissatisfaction;
- threaten or result in overspend requiring correction;
- be an early indicator of a larger strategic problem.

In the year there were 6 meetings of the Strategic Management Forum and 12 ordinary Management Team meetings.

The Management Team reviewed its effectiveness in November 2011 and made certain amendments to its terms of reference as a result of that review.

Risk Assessment

The system of control is designed to manage risk to a reasonable level rather than to eliminate all risk of failure to achieve policies, aims and objectives, it can therefore only provide reasonable, not absolute, assurance of effectiveness. The system of internal control is based on an ongoing process designed to identify and prioritise the risks to the achievements of our policies, aims and objectives to evaluate the likelihood of those risks being realised and the impact should they be realised, and to manage them efficiently, effectively and economically. The system of control has been in place for the year ended 31 March 2012 and up to the date of approval of the annual report and accounts and accords with Treasury guidance.

The Management Team has determined, in the light of the size of the organisation and our relatively straightforward functions, that risk should be managed proportionately and reasonably in order to ensure that value is added to the office's objectives. We seek to avoid risk, but we do not expect to eliminate all risk. We do expect to manage risk so as to be able to fulfil our functions effectively and efficiently so as to maintain public confidence.

Our key risks and uncertainties are set out in section 2.4: Other management activities.

Being a small organisation, those engaged in strategic risk management are as a matter of course greatly engaged in operational matters. We adapt to change by identifying and managing risks both informally and formally at operational level, recording and acting on any strategic implications of those risks.

Our risk management framework was reviewed in June 2011. It defines those risks that are regarded as *strategic* – and so within the Strategic Management Forum's remit and those that are *operational* – and so dealt with in Management Team meetings.

Within that structure, risk is controlled through the following steps:

- key risks to the achievement of strategic and or business delivery aims objectives and targets are identified and assigned to named individuals;
- causes and consequences of those risks are identified;
- there is a consistent scoring system for the assessment of risks on the basis of likelihood and impact;
- we determine appropriate management controls and activities to mitigate the risks identified, having regard to the amount of risk deemed to be tolerable and justifiable;
- risks are measured at both inherent and residual level to assess the reliance placed on mitigating controls and activities and the office's exposure should they fail;
- measures and indicators are identified to provide assurance that the mitigation actions are appropriate and effective;
- regular monitoring and updating of risk information to ensure new and emerging risks are captured.

There were no non trivial lapses of data security in 2011/12.

Review of effectiveness

As Accounting Officer, I have responsibility for reviewing the effectiveness of the system of internal control.

I am satisfied that the arrangements described above are fit for purpose and effective, having themselves been subject to appropriate review during the year.

My review of the effectiveness of the system of internal control is informed by the work of the internal auditors and comments made by the external auditors in their management letter and other reports. I have been advised on the implications of the result of my review of the effectiveness of the system of internal control by the Audit Committee and a plan to address weaknesses and ensure continuous improvement of the system is in place.

At the end of the year our internal auditors in their assurance report gave an overall assurance level of "reasonable".



Tony King
Pensions Ombudsman
Pension Protection Fund Ombudsman
18 June 12

4.4 The Certificate and Report of the Comptroller and Auditor General to the Houses of Parliament

I certify that I have audited the financial statements of The Pensions Ombudsman and Pension Protection Fund Ombudsman for the year ended 31 March 2012 under the Pension Schemes Act 1993 and the Pensions Act 2004. The financial statements comprise: the Statements of Comprehensive Net Expenditure, Financial Position, Cash Flows, Changes in Taxpayer's Equity and the related notes. These financial statements have been prepared under the accounting policies set out within them. I have also audited the information in the Remuneration Report that is described in that report as having been audited.

Respective responsibilities of the Board, Accounting Officer and auditor

As explained more fully in the Statement of Accounting Officer's Responsibilities, the Ombudsman as Accounting Officer is responsible for the preparation of the financial statements and for being satisfied that they give a true and fair view. My responsibility is to audit and express an opinion on the financial statements in accordance with the Pension Schemes Act 1993 and the Pensions Act 2004. I conducted my audit in accordance with International Standards on Auditing (UK and Ireland). Those standards require me and my staff to comply with the Auditing Practices Board's Ethical Standards for Auditors.

Scope of the Audit of the Financial Statements

An audit involves obtaining evidence about the amounts and disclosures in the financial statements sufficient to give reasonable assurance that the financial statements are free from material misstatement, whether caused by fraud or error. This includes an assessment of: whether the accounting policies are appropriate to The Pensions Ombudsman and Pension Protection Fund Ombudsman's circumstances and have been consistently applied and adequately disclosed; the reasonableness of significant accounting estimates made by the Pension Ombudsman and Pension Protection Fund Ombudsman; and the overall presentation of the financial statements. In addition I read all the financial and non-financial information in the annual report to identify material inconsistencies with the audited financial statements. If I become aware of any apparent material misstatements or inconsistencies I consider the implications for my certificate.

I am required to obtain evidence sufficient to give reasonable assurance that the expenditure and income recorded in the financial statements have been applied to the purposes intended by Parliament and the financial transactions recorded in the financial statements conform to the authorities which govern them.

Opinion on Regularity

In my opinion, in all material respects the expenditure and income recorded in the financial statements have been applied to the purposes intended by Parliament and the financial transactions recorded in the financial statements conform to the authorities which govern them.

Opinion on financial statements

In my opinion:

- the financial statements give a true and fair view of the state of the Pensions Ombudsman and Pension Protection Fund Ombudsman's affairs as at 31 March 2012 and of the total comprehensive expenditure for the year then ended; and
- the financial statements have been properly prepared in accordance with the Pension Schemes Act 1993 and Pensions Act 2004 and the Secretary of State for Work and Pensions' directions made thereunder.

Opinion on other matters

In my opinion:

- the part of the Remuneration Report to be audited has been properly prepared in accordance with the Secretary of State for Work and Pensions' Directions made under the Pension Scheme Act 1993 and Pensions Act 2004; and
- the information given in the Introduction and Management Commentary for the financial year for which the financial statements are prepared is consistent with the financial statements.

Matters on which I report by exception

I have nothing to report in respect of the following matters which I report to you if, in my opinion:

- adequate accounting records have not been kept or returns adequate for my audit have not been received from branches not visited by my staff; or
- the financial statements and the part of the Remuneration Report to be audited are not in agreement with the accounting records or returns; or
- I have not received all of the information and explanations I require for my audit; or
- the Governance Statement does not reflect compliance with HM Treasury's guidance.

Report

I have no observations to make on these financial statements.

Amyas C E Morse
Comptroller and Auditor General
National Audit Office
157-197 Buckingham Palace Road
Victoria
London
SW1W 9SP

22 June 2012

4.5 Accounts

The Pensions Ombudsman (Incorporating the Pension Protection Fund Ombudsman)

STATEMENT OF COMPREHENSIVE NET EXPENDITURE

Year ended 31 March 2012

	Note	2011/12 £	2010/11 £
PROGRAMME EXPENDITURE			
Staff costs	3	(1,892,245)	(1,853,599)
Depreciation	5	(5,638)	(7,065)
Other expenditure	4	(862,253)	(817,689)
OPERATING DEFICIT		<u>(2,760,136)</u>	<u>(2,678,353)</u>
TOTAL COMPREHENSIVE EXPENDITURE		<u>(2,760,136)</u>	<u>(2,678,353)</u>

All activities were continuing throughout the year.

The notes on pages 55 to 64 form part of these statutory accounts.

The Pensions Ombudsman (incorporating the Pension Protection Fund Ombudsman)

STATEMENT OF FINANCIAL POSITION

31 March 2012

	Note	2011/12 £	2010/11 £
NON-CURRENT ASSETS			
Property, plant and equipment	5	<u>3,763</u>	<u>10,894</u>
TOTAL NON-CURRENT ASSETS		3,763	10,894
CURRENT ASSETS			
Trade and other receivables	6	<u>43,510</u>	<u>34,989</u>
Cash and cash equivalents	7	<u>368,578</u>	<u>101,028</u>
TOTAL CURRENT ASSETS		412,088	136,017
TOTAL ASSETS		415,851	146,911
CURRENT LIABILITIES			
Trade and other payables	8	<u>70,074</u>	<u>70,998</u>
TOTAL CURRENT LIABILITIES		70,074	70,998
ASSETS LESS LIABILITIES		345,777	75,913
TAXPAYER'S EQUITY			
General reserve		<u>345,777</u>	<u>75,913</u>

The financial statements on pages 41 to 54 were approved on 18 June 2012 and signed by



Tony King
Pensions Ombudsman
Pensions Protection Fund Ombudsman

18 June 2012

The notes on pages 55 to 64 form part of these statutory accounts.

The Pensions Ombudsman (incorporating the Pension Protection Fund Ombudsman)

STATEMENT OF CASH FLOWS

Year ended 31 March 2012

	Note	2011/12		2010/11	
		£	£	£	£
CASH FLOWS FROM OPERATING ACTIVITIES					
Total comprehensive expenditure		(2,760,136)		(2,678,353)	
Depreciation	5	5,638		7,065	
Revaluation of fixed assets	5	1,493		451	
Profit on disposal of fixed assets		–		(5,271)	
(Increase)/decrease in receivables		(8,521)		120	
Decrease in payables		(924)		(59,865)	
Net cash outflow from operating activities		(2,762,450)		(2,735,853)	
CASH FLOWS FROM INVESTING ACTIVITIES					
Purchase of IT equipment		–		(1,864)	
Net cash outflow from investing activities		–		(1,864)	
CASH FLOWS FROM FINANCING ACTIVITIES					
Grants from parent department		3,030,000		2,810,000	
NET FINANCING		3,030,000		2,810,000	
Increase in cash in the year		267,550		72,283	
Cash and cash equivalents at 1 April 2011		101,028		28,745	
Cash and cash equivalents at 31 March 2012		368,578		101,028	

The notes on pages 55 to 64 form part of these statutory accounts.

The Pensions Ombudsman (incorporating the Pension Protection Fund Ombudsman)

STATEMENT OF CHANGES IN TAXPAYERS' EQUITY

Year ended 31 March 2012

	Note	General Reserve £
Balance at 1 April 2010		<u>(55,734)</u>
Changes in Taxpayers' Equity		
Total comprehensive expenditure		<u>(2,678,353)</u>
Grant-in-aid to cover ongoing operations		<u>2,810,000</u>
Balance at 31 March 2011		<u>75,913</u>
Changes in Taxpayers' Equity		
Total comprehensive expenditure		<u>(2,760,136)</u>
Grant-in-aid to cover ongoing operations		<u>3,030,000</u>
Balance at 31 March 2012		<u>345,777</u>

The notes on pages 55 to 64 form part of these statutory accounts.

The Pensions Ombudsman (incorporating the Pension Protection Fund Ombudsman)

NOTES TO THE ACCOUNTS

Year ended 31 March 2012

1. ACCOUNTING POLICIES

Basis of accounting

These financial statements have been prepared in accordance with the 2011-12 *Government Financial Reporting Manual (FReM)* issued by HM Treasury. The accounting policies contained in the FReM apply International Financial Reporting Standards (IFRS) as adapted or interpreted for the public sector context. Where the FReM permits a choice of accounting policy, the accounting policy which is judged to be most appropriate to the particular circumstances of the Pensions Ombudsman for the purpose of giving a true and fair view has been selected. The particular policies adopted by the Pensions Ombudsman are described below. They have been applied consistently in dealing with items that are considered material to the accounts.

International Financial Reporting Standards Amendments and Interpretations effective in 2012-13

No Amendments or Interpretations that have been issued but are not yet effective, and that are available for early adoption, have been applied by the Pensions Ombudsman in these financial statements. There are no Amendments or Interpretations issued, but not yet effective, which are expected to have a material effect on the financial statements in the future.

Accounting convention

These accounts have been prepared under the historical cost convention modified to account for the revaluation of property, plant and equipment.

Going concern

Future financing of the Ombudsman will be met by grant-in aid from the Department for Work and Pensions, as the Ombudsman's sponsoring dept. The amount for 2012/13 has already been agreed and there is no reason to suppose that this will not continue. It has accordingly been considered appropriate to adopt the going concern basis for the preparation of these financial statements.

Government grants & grant-in-aid

Grant-in-aid received used to finance activities which support the statutory and other objectives of the entity are treated as financing, credited to the General Reserve, because they are regarded as contributions from a controlling party.

Cash and cash equivalents

Cash and cash equivalents comprise cash at bank and in hand and short term deposits. Short term deposits are defined as deposits with an initial maturity of three months or less.

Other income and expenditure

Other income and expenditure is recognised on an accruals basis. Where income received relates to the period of time covering more than one accounting period that part extending beyond the current accounting period is treated as deferred income.

VAT

The Ombudsman was not registered for VAT during the financial year 2011/12.

NOTES TO THE ACCOUNTS

Year ended 31 March 2012

1. ACCOUNTING POLICIES (continued)

Property, plant and equipment

Property, plant and equipment are stated at fair value which is calculated by applying appropriate Office for National Statistics indices (ONS) to the historical cost of each asset. Any surplus on revaluation of these is credited to the General Reserve. Any impairment in the value of a non-current asset on revaluation is charged to the Statement of Comprehensive Net Expenditure when it occurs. The Ombudsman is required to remit the proceeds of disposal of non-current assets to the Secretary of State.

Non-current assets are recognised where expenditure is in excess of £500.

Depreciation

Depreciation is calculated so as to write off the carrying value of an asset, less its estimated residual value, over the useful economic life of that asset as follows:

IT Equipment – 6 years straight line

Assets are not depreciated until they are commissioned or brought into use.

During 2011-12 the Ombudsman conducted a review of its depreciation rates to ensure assets were charged over the expected useful economic life of the assets; this resulted in IT Equipment being charged over a revised 6 years (5 years 2010-11). The impact of this change in accounting estimate is a £5,027 reduction in charge for the year to the Statement of Comprehensive Net Expenditure.

Leases

Leases are classified as finance leases whenever the terms of the lease transfer substantially all the risks and rewards of ownership to the lessee. All other leases are classified as operating leases. Rentals payable under operating leases are charged to the Statement of Comprehensive Net Expenditure on a straight-line basis over the term of the relevant lease.

Pension arrangements

Past and present employees are covered by the provisions of the Principal Civil Service Pension Scheme (PCSPS) which is a defined benefit scheme and is unfunded and non-contributory, except in respect of dependants' benefits. The Ombudsman recognises the expected cost of providing pensions on a systematic and rational basis over the period during which it benefits from employers' service by payment to the PCSPS of amounts calculated on an accruing basis. Liability for the payment of future benefits is a charge on the PCSPS.

Financial instruments

The Pensions Ombudsman determines the classification of financial assets and liabilities at initial recognition. They are derecognised when the right to receive cash flows has expired or when it transfers the financial asset and the transfer qualifies for derecognition.

Loans and receivables are non-derivative financial assets with fixed or determinable payments that are not quoted in an active market and which are not classified as available for sale. Loans and receivables are initially recognised at fair value and subsequently held at amortised cost. The fair value of trade and other receivables is usually the original invoiced amount.

The Pensions Ombudsman (incorporating the Pension Protection Fund Ombudsman)

NOTES TO THE ACCOUNTS

Year ended 31 March 2012

1. ACCOUNTING POLICIES (continued)

Cash at bank and in hand comprises cash in hand and current balances with banks and similar institutions, which are readily convertible to known amounts of cash and which are subject to insignificant changes in value.

The Pensions Ombudsman assesses at each Statement of Financial Position date whether there is objective evidence that financial assets are impaired as a result of one or more loss events that occurred after the initial recognition of the asset and prior to the Statement of Financial Position date and whether such events have had an impact on the estimated future cash flows of the financial instrument and can be reliably estimated.

Interest determined, impairment losses and translation differences on monetary items are recognised in the Statement of Comprehensive Net Expenditure.

Critical accounting judgements and key sources of estimation uncertainty

The preparation of financial statements in conformity with IFRS requires management to make judgements, estimates and assumptions that affect the application of policies and reported amounts in the financial statements.

We consider there to be no areas of critical judgement used in applying the accounting policies.

There are no significant sources of estimation uncertainty.

NOTES TO THE ACCOUNTS

Year ended 31 March 2012

2. PENSION PROTECTION FUND OMBUDSMAN (PPFO) ELEMENT OF COSTS

PPFO activity continues to be of relatively limited scale. Previously costs were attributed based purely on a comparison between the number of PPFO cases and PO cases dealt with. During the 2008/9 year we introduced an informal time recording arrangement to support the split of costs. During 2011/12 24 PPFO cases (2010/11: 42 cases) and 888 PO cases (2010/11: 847 cases) were closed. Approximately 3% (2010/11: 5%) of expenditure and total net liabilities (corresponding to £83,000 for the year ended 31 March 2012) is deemed attributable to the PPFO (2010/11: £131,000).

No further analysis of costs is made between PPFO and PO cases and these costs are not separately reported to management. Therefore the Ombudsman is considered to only have one operating segment and as such there is no additional segmental analysis requiring disclosure in the accounts.

3. STAFF COSTS

	Year ended 31 March 2012		
	Total	Permanently employed staff	Others
	£	£	£
Wages and salaries	1,499,884	1,492,776	7,108
Employers' national insurance contributions	128,806	128,806	–
Staff pension contributions	263,555	263,555	–
	<u>1,892,245</u>	<u>1,885,137</u>	<u>7,108</u>

	Year ended 31 March 2011		
	Total	Permanently employed staff	Others
	£	£	£
Wages and salaries	1,458,485	1,456,161	2,324
Employers' national insurance contributions	119,738	119,738	–
Staff pension contributions	275,376	275,376	–
	<u>1,853,599</u>	<u>1,851,275</u>	<u>2,324</u>

The average number of staff employed during the period was 37 (2010/11: 38). The average number of other staff was 1 (2010/11: 1).

The Pensions Ombudsman (incorporating the Pension Protection Fund Ombudsman)

NOTES TO THE ACCOUNTS

Year ended 31 March 2012

3. STAFF COSTS (continued)

Principal Civil Service Pension Schemes

From 1 October 2002, civil servants and others approved by the Cabinet Office, including certain designated staff of the Ombudsman, may be in one of three statutory based 'final salary' unfunded multi-employer defined benefit schemes (Classic, Premium, and Classic Plus). The schemes are unfunded, with the cost of benefits met by monies voted by Parliament each year. Entrants after 1 October 2002 may choose to join a 'money purchase' stakeholder arrangement with a significant employer contribution (partnership pension account). Pensions payable under Classic, Premium, and Classic Plus are increased annually in line with changes in the Consumer Price Index. Employee contributions are set at the rate of 1.5% of pensionable earnings for Classic and 3.5% for Premium and Classic Plus.

Benefits in Classic accrue at the rate of 1/80th of pensionable salary for each year of service. In addition, a lump sum equivalent to three years' pension is payable on retirement. For Premium benefits accrue at the rate of 1/60th of final pensionable earnings for each year of service. Unlike Classic, there is no automatic lump sum, (but members may give up (commute) some of their pension to provide a lump sum). Classic Plus is essentially a variation of Premium, but with benefits in respect of service before 1 October 2002 calculated broadly as per Classic.

The partnership pension account is a stakeholder arrangement. The employer makes a basic contribution of between 3% and 12.5% (depending on the age of the member) into a stakeholder pension product chosen by the employee. The employee does not have to contribute but where they do make contributions, the employer will match these up to a limit of 3% of pensionable salary (in addition to the employer's basic contribution). Employers also contribute a further 0.8% of pensionable salary to cover the cost of centrally provided risk benefit cover (death in service and ill-health retirement).

These schemes closed to new members in July 2007. Existing members retained membership and existing benefits. A new Scheme called Nuvos was established for new members from that date. Nuvos allows staff to earn 2.3% of their pensionable earnings towards their pension each year. Again there is no automatic lump sum but like Premium, members may opt to give up part of their pension for a lump sum which will usually be tax-free.

Further details about the Civil Service Pension arrangements can be found at the website www.civilservice-pensions.gov.uk

During 2011/12 employer's contributions of £263,555 (2010/11: £275,376) were payable to the Scheme.

NOTES TO THE ACCOUNTS

Year ended 31 March 2012

4. OTHER EXPENDITURE

	Year ended 31 March 2012 £	Year ended 31 March 2011 £
Education and exams	2,318	583
Rent and rates	327,156	322,504
Insurance	4,266	3,400
Business continuity	15,408	14,632
Travel and subsistence	3,045	3,035
Telephone	8,995	7,701
Hire of equipment	9,627	9,543
Printing, stationery and postage	34,179	35,638
Staff training	7,752	6,234
Sundry expenses	4,286	7,220
IT costs	268,005	263,750
Subscriptions	70,504	64,098
Staff Recruitment	4,649	–
Legal and professional fees	61,934	40,978
Accountancy fees	17,360	21,886
Auditor's remuneration	20,500	20,500
Non-cash items:		
Revaluation of fixed assets	1,493	451
Loss on disposal of fixed assets	–	(5,271)
Bank charges	776	807
	<u>862,253</u>	<u>817,689</u>

The auditors did not receive any remuneration for non audit work (2010/11 £Nil).

The Pensions Ombudsman (incorporating the Pension Protection Fund Ombudsman)

NOTES TO THE ACCOUNTS

Year ended 31 March 2012

5. PROPERTY, PLANT AND EQUIPMENT

	IT Equipment
	£
COST/VALUATION	
At 1 April 2011	144,598
Additions	–
Disposals	–
Revaluation	(19,810)
At 31 March 2012	<u>124,788</u>
DEPRECIATION	
At 1 April 2011	133,704
Revaluation	(18,317)
Elimination on disposals	–
Charge for the year	5,638
At 31 March 2012	<u>121,025</u>
NET BOOK VALUE	
At 31 March 2012	<u>3,763</u>
At 31 March 2011	<u>10,894</u>
COST/VALUATION	
At 1 April 2010	155,014
Additions	7,328
Disposals	(11,543)
Revaluation	(6,201)
At 31 March 2011	<u>144,598</u>
DEPRECIATION	
At 1 April 2010	143,738
Revaluation	(5,750)
Elimination on disposals	(11,349)
Charge for the year	7,065
At 31 March 2011	<u>133,704</u>
NET BOOK VALUE	
At 31 March 2011	<u>10,894</u>
At 31 March 2010	<u>11,276</u>

NOTES TO THE ACCOUNTS

Year ended 31 March 2012

6. TRADE AND OTHER RECEIVABLES

	31 March 2012 £	31 March 2011 £
Other receivables	10,727	10,377
Prepayments	32,783	24,612
	<u>43,510</u>	<u>34,989</u>

There are no intra government balances.

7. CASH AND CASH EQUIVALENTS

	31 March 2012 £	31 March 2011 £
Balance at 1 April 2011	101,028	28,745
Net change in cash and cash equivalent balances	267,550	72,283
Balance at 31 March 2012	<u>368,578</u>	<u>101,028</u>

The following balances at 31 March 2012 were held at:

Commercial banks and cash in hand £368,495 (31 March 2011: £101,028)

8. TRADE AND OTHER PAYABLES

	31 March 2012 £	31 March 2011 £
Accruals	70,074	70,999

PAYABLES: Balances with other Government bodies.

	31 March 2012 £	31 March 2011 £
Internal Audit Services	20,500	20,250
Accruals	<u>20,500</u>	<u>20,250</u>

The Pensions Ombudsman (incorporating the Pension Protection Fund Ombudsman)

NOTES TO THE ACCOUNTS

Year ended 31 March 2012

9. GRANT IN AID

Grant-in-aid in 2011/12 consisted of £2,693,616 revenue expenditure and £336,384 capital expenditure. (2010/11: £2,810,00)

10. COMMITMENTS UNDER OPERATING LEASES

The total future minimum lease payments under operating leases are given below, analysed according to the period in which payments fall due:

Buildings

	31 March 2012	31 March 2011
	£	£
Obligations under operating leases comprise:-		
Not later than one year	259,948	282,218
Later than one year and not later than five years	64,987	352,773
	<u>324,935</u>	<u>634,991</u>

Other

	31 March 2012	31 March 2011
	£	£
Obligations under operating leases comprise:-		
Not later than one year	130,384	57,534
Later than one year and not later than five years	21,153	30,457
	<u>151,537</u>	<u>87,991</u>

Rent and rates cost £327,156 in 2011/12 (2010/11: £322,504). Our other obligations are our IT contract and leased photocopiers. IT costs in 2011/12 were £268,005 (2010/11: £263,750). Photocopier costs in 2011/12 were £7,729.52 (2010/11: £7,325.51.)

11. RELATED PARTY TRANSACTIONS

The Department for Work and Pensions are our Sponsor Department and grant-in-aid is received from them, the amounts are disclosed in the Statement of Changes in Taxpayers' Equity. Service Charges in respect of the accommodation were reimbursed to the Department for Work and Pensions in the sum of £17,882 during the year (2010/11: £15,956). During the year the office accommodation was rented from HM Revenue and Customs at an annual cost of £307,728 (2010/11: £303,674). At 31 March 2012 £Nil was due to the Department for Work and Pensions (2010/11: £1,456). The ombudsman's Internal Audit Services are provided by the Department for Work and Pensions and £20,500 was due for that service at 31 March 2012 (2010/11: £20,250).

12. CAPITAL COMMITMENTS

Amounts contracted for but not provided in the accounts amounts to £336,384 (2010/11: £nil). This is in relation to an IT refresh. The contract was not signed until April but the procurement process and contract negotiations were sufficiently progressed that the Pensions Ombudsman was committed to the expenditure at year end.

NOTES TO THE ACCOUNTS

Year ended 31 March 2012

13. FINANCIAL INSTRUMENTS

It is, and has been, the Pension's Ombudsman policy that no trading in financial instruments is undertaken.

The Ombudsman does not face the degree of exposure to financial risk that commercial businesses do. In addition financial assets and liabilities generated by day-to-day operational activities are not held in order to change the risks facing the Pensions Ombudsman in undertaking its activities. The Ombudsman relies upon the Department for Work and Pensions for its cash requirements, having no power itself to borrow or invest surplus funds and the Ombudsman's main financial assets and liabilities have either a nil or a fixed rate of interest (currently 3.5%). The short-term liquidity and interest rate risks are therefore slight. The Ombudsman's exposure to foreign currency risk is not significant.

The fair values of the Ombudsman's financial assets and liabilities for both the current and comparative year do not differ materially from their carrying values.

Financial Assets by category at fair value

	2012	2011
	Loans and receivables	Loans and receivables
	£	£
Cash and cash equivalents	368,578	101,028
Other receivables	10,727	10,377
	<u>379,306</u>	<u>111,405</u>

Financial liabilities by category at fair value

	2012	2011
	Measured at amortised cost	Measured at amortised cost
	£	£
Accruals	<u>70,074</u>	<u>70,999</u>

Liquidity risk

The Ombudsman's net revenue resource requirements are largely funded by grant-in-aid from its Sponsor Department. The capital expenditure is also financed through grant-in-aid. The Ombudsman is consequently not exposed to significant liquidity risks.

Interest rate risk

The Ombudsman is not exposed to any interest rate risk.

Foreign currency risk

There is no risk as the Ombudsman does not deal in foreign currency.

4.6 Accounts Direction

The Secretary of State for the Department for Work and Pensions has issued the following accounts direction.

1. This direction applies to the Pensions Ombudsman/ Pension Protection Fund Ombudsman.
2. The Pensions Ombudsman/Pensions Protection Fund Ombudsman shall prepare accounts for the financial year ended 31 March 2009 and each subsequent financial year in compliance with:
 - the accounting principles and disclosure requirements of the current edition of the Government Financial reporting Manual issued by HM treasury (“the FReM”) which is in force for the financial year for which the accounts are being prepared;
 - other guidance which HM Treasury may issue from time to time in respect of accounts which are required to give a true and fair view;
 - the Framework Document (containing the Management Statement and Financial Memorandum of Understanding) agreed between the Pensions Ombudsman/ Pension Protection Fund Ombudsman and the Department for Work and Pensions; and
 - any other specific disclosure or other requirements required by the Secretary of State.
3. The accounts shall be prepared so as to:
 - a) give a true and fair view of the state of affairs as of 31 March 2009 and subsequent financial year ends, and of the income and expenditure, total recognised gains and losses and cash flows for each year then ended; and
 - b) provide disclosure of any material expenditure or income that has not been applied to the purposes intended by Parliament or material transactions that have not conformed to the authorities which govern them.
4. Compliance with the requirements of the FReM will, in all but exceptional circumstances, be necessary for the accounts to give a true and fair view. If, in these exceptional circumstances, compliance with the requirements of the FReM is inconsistent with the requirement to give a true and fair view, the requirements of the FReM should be departed from only to the extent necessary to give a true and fair view. In such cases, informed and unbiased judgement should be used to devise an appropriate alternative treatment which should be consistent with both the economic characteristics of the circumstances concerned and the spirit of the FReM. Any material departure from the FReM should be discussed with HM Treasury.



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