Department for Work & Pensions

Tailored Review of The Pensions Regulator

April 2019

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Foreword

In July 2018 I was asked to lead the Tailored Review of The Pensions Regulator (TPR) on behalf of the Department for Work and Pensions (DWP).

TPR was considered as part of the 2014 Triennial Review and 2017 Regulatory Futures Review, and this review has therefore adopted a ‘light touch’ approach, focussing on areas that had not come under scrutiny in previous reviews, or areas where there had been changes.

TPR has undergone vast change in the last decade in response to significant changes in the pensions landscape, including the introduction of Automatic Enrolment, Pension Flexibilities, and the on-going move of pensions savings from a predominantly Defined Benefit towards a significant raise in the Defined Contribution market. Consequently, the regulator has increased in size, taken on new roles, and in many ways no longer resembles the regulator of the past.

TPR has recently been through a period of intense media and parliamentary scrutiny, following the high profile collapses of BHS and Carillion and the debate surrounding the pensions offered by TATA Steel. TPR has faced calls for it to be a more active regulator, using its powers of enforcement more regularly in order to better protect the savings of members of occupational pension schemes.

Considering the changing and challenging context the regulator finds itself in, this review found that the regulator is a well-run organisation that effectively carries out its statutory objectives. TPR has been particularly effective in its implementation of Automatic Enrolment, and have also begun making great progress in improving the standards of governance and administration in public sector pension schemes.

TPR is a very thorough organisation and has considered carefully how it will need to develop to meet its future regulatory commitments. It is making the changes it needs to become a modern regulator, both supporting the occupational pensions industry to improve standards and using their powers to enforce them.

The TPR Future programme will have a large impact on the organisation, both operationally and culturally, it appears well managed, and I look forward to seeing the improvements it should bring to TPR’s ability to effectively regulate the industry.

Leadership of the organisation is good and the relationships at board and executive level strike the right balance of challenge and support. It is clear that Lesley Titcomb has made a significant impact on the development and performance of the organisation and her departure leaves some in the industry questioning the impact this could have. I am assured that the regulator has done enough to prepare for the change in leadership and is committed, particularly through TPR Future, to continue its developmental work.

As with any review of this kind there are areas that the regulator could improve and the recommendations in this review reflect the maturity and capability of the organisation.

I'd like to thank the Chair, board and staff of the regulator for the open and objective way they approached this review and for their support in terms of time and effort. Finally, I'd like to thank my review team for their unstinting support throughout the review.

Jamey Johnson

Lead Reviewer

1. Introduction

Aims of the Tailored Review

Tailored Reviews are periodic reviews that provide assurance and challenge about the continuing need, efficiency and good governance of public bodies. All Tailored Reviews are carried out in line with the Cabinet Office 'Tailored Reviews: Guidance on Reviews of Public Bodies'.[1]

As a non-departmental public body (NDPB), The Pensions Regulator (TPR) is subject to a Tailored Review at least once in the lifetime of a Parliament. TPR was subject to a previous Triennial Review in 2014 and this review has considered the implementation of recommendations made in it.[2]

TPR also participated in the 2017 Regulatory Futures Review, which looked at best practice in regulatory models and increasing efficiency, and this review has considered its conclusions.[3]

Overview of The Pensions Regulator

The Pensions Regulator is the UK regulator of workplace pension schemes, working with trustees, employers, and business advisers in the public and private sectors. TPR's statutory objectives are set out in the Pensions Act 2004,[4] amended by the Pensions Acts 2008[5] and 2014.[6] These are:

- To protect the benefits of members of occupational pension schemes
- To protect the members of personal pension schemes where direct payment arrangements are in place
- To reduce the risk of situations arising which may lead to compensation being payable from the Pension Protection Fund (PPF)

[1] Cabinet Office, (2016), *Tailored Reviews: Guidance on Reviews of Public Bodies*, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/633573/Tailored_Review_Guidance_on_public_bodies_V1.2_July_2017.pdf
[2] Department for Work and Pensions, (2014), *Triennial Review of Pensions Bodies Stage 1: Options for delivery; Report by the Department for Work and Pensions on the Pensions Regulator, the Pensions Ombudsman, the Pension Protection Fund Ombudsman and the Pensions Advisory Service*, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/270135/triennial-review-pensions-bodies-stage1-delivery-options.pdf
[3] Cabinet Office, (2017), *Regulatory Futures Review*, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/582283/Regulatory_Futures_Review.pdf
[4] Pensions Act 2004, http://www.legislation.gov.uk/ukpga/2004/35/contents
[5] Pensions Act 2008, http://www.legislation.gov.uk/ukpga/2008/30/contents
[6] Pensions Act 2014, https://www.legislation.gov.uk/ukpga/2014/19/contents

- In relation to functions for DB scheme funding only, to minimise any adverse impact on the sustainable growth of an employer
- To maximise employer compliance with employer duties and the employment safeguards introduced by the Pensions Act 2008
- To promote, and to improve understanding of, the good administration of work-based pension schemes

As at December 2018, TPR has 716 employees. It is funded through the Department for Work and Pensions (DWP) with a total forecast spend in 2018/19 of £87.7 million. TPR comprises two distinct operating segments: employer compliance with the Automatic Enrolment (AE) regime, and the regulation of new and existing Defined Benefit (DB) and Defined Contribution (DC) schemes.

The regulation of occupational pension schemes is funded through the General Levy charged on pension schemes in the United Kingdom. It is paid as a Grant-in-Aid from DWP, and costs are offset by levy income.

AE is tax-payer funded through a separate Grant-in-Aid stream from the DWP AE Programme, and resources are charged and treated separately from levy funded activities. The AE Programme, which is due to end in November 2019, and the future arrangements and funding for this work are currently under consideration.

TPR's regulatory activities, including their work on the AE programme, contribute to DWP's strategic objective to "ensure financial security for current and future pensioners", as set out in the Department's Single Departmental Plan.[7]

TPR continues to grow and change in their remit, taking on new roles. In 2018 TPR took on the role of authorising and supervising Master Trusts, and the DB White Paper[8] has suggested new powers for TPR in authorising and supervising DB consolidators.

Recent publicity and high-profile cases including Tata Steel and BHS and scrutiny from the Work and Pensions Select Committee have highlighted the additional demands upon TPR. A main criticism of the Select Committee was that TPR needed to be a more proactive regulator, and the ongoing changes to their operating model to become 'clearer, quicker, tougher' and the way they regulate is already going a long way to addressing this critique. The TPR Future Programme aims to re-engineer TPR's regulatory approach, making it a clearer, quicker and tougher regulator. This

[7] Department for Work and Pensions, (2018), *Single Departmental Plan*, https://www.gov.uk/government/publications/department-for-work-and-pensions-single-departmental-plan/department-for-work-and-pensions-single-departmental-plan-2018
[8] Department for Work and Pensions, (2018), *Protecting Defined Benefit Pension Schemes*, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/693655/protecting-defined-benefit-pension-schemes.pdf

review will consider TPR's effectiveness and efficiency in light of these challenges and the changes planned to meet them.

Process

The review was led by Jamey Johnson (Chief Officer for Pension Wise), supported by a small dedicated Review Team. The review was conducted between August and November 2018. Evidence was collected from materials supplied by TPR and the DWP's ALB Partnership team, as well as one to one interviews conducted with TPR Board members and Directors, and civil servants from the DWP's Private Pensions and ALB Partnership division. The review team have consulted with TPR throughout the review process.

Recommendations

The review makes the following recommendations:

Form and Functions

- **Recommendation 1:** The Department should consider the benefits of extending TPR's powers to enable them to make rules in specific circumstances, and if this could enable the regulator to better achieve its goal of being clearer, quicker and tougher.
- **Recommendation 2:** TPR should continue their work to connect with other organisations and improve its information sharing capabilities in order to improve the information available to pension scheme members.
- **Recommendation 3:** This review has found that TPR and the FCA are working together effectively on industry issues. TPR should ensure they proactively monitor delivery against the joint strategy to provide assurance of the ongoing effectiveness of the relationship to the Department.

The UK's departure from the European Union

- **Recommendation 4:** We recommend that TPR continues to work with the countries they are most aligned with in order to share best practice and maintain a working relationship for cross border schemes. At the appropriate time, TPR should explore establishing information sharing agreements to facilitate these relationships.
- **Recommendation 5:** The regulator should augment the work of its Brexit Working Group to consider what guidance and support it could offer its regulated entities at this challenging and uncertain time.

Relationship with the Department

- **Recommendation 6:** Both the Department and TPR should take steps to ensure that the introduction of new staff safeguards the relationship between the two organisations.
- **Recommendation 7:** The Department should take the opportunity of the closure of the AE programme to review the partnership arrangements with the AE division of TPR, for example by aligning oversight into the existing Partnership approach for the organization.
- **Recommendation 8:** The Department should review TPR's budget delegations to ensure that the requirements for departmental approval are proportionate and recognise that TPR has strong assurance measures in place.

Governance

- **Recommendation 9:** TPR should seek to add a Board member with experience in organisational and digital transformation at the next available opportunity. This could also be an opportunity to increase the ethnic diversity of its Board members.

Operational Effectiveness

- **Recommendation 10:** TPR should take the opportunity of the reshaping of their organisation to review their current internal governance structures and streamline them.
- **Recommendation 11:** The regulator should assess whether the codes of practice they measure schemes against are the correct minimum standards of compliance they expect of all schemes.
- **Recommendation 12:** TPR should seek improved methods of gathering data to monitor schemes, in order to decrease the regulatory burden on schemes and employers.
- **Recommendation 13:** We recommend that scenario planning capability remains an area of focus for TPR and that resources are prioritised towards it.

Organisational Effectiveness

- **Recommendation 14:** The regulator should put in place a plan to have a workforce whose diversity more closely reflects the population they serve, which includes an ambition to increase BAME representation at Board level.

Efficiency

- **Recommendation 15:** The Department should continue to work towards a decision regarding TPR's future funding arrangements in order to provide TPR with greater certainty.

- **Recommendation 16:** TPR should engage with the Office of Government Property to source suitable accommodation in London to support its work. During the course of the review, TPR has acquired office space in central London.

2. Form and Functions

Are the functions of TPR still needed?

This review concluded that all of TPR's functions are needed in order to support the good running of work based pension schemes. Members of pension schemes require protection, to make sure that trustees act in the best interest of members and scheme sponsors meet their obligations. The recent collapses of large companies, such as BHS, have demonstrated the continuing need for a public body to protect the savings of members of workplace pensions.

TPR's objectives (listed in Introduction) mean that TPR has a wide remit, regulating the different sectors of Defined Benefit schemes, workplace Defined Contribution schemes, Public Sector Schemes, and ensuring employers participate in Automatic Enrolment. It makes sense for these objectives to continue to be carried out by one body, as the expertise of staff supports the delivery of functions across the organisation. The new operating model that TPR is currently implementing will encourage such cross-organisational sharing of skills.

We recognise that there is tension between TPR's statutory objectives. The objective added by the Pensions Act 2014[9] states that in relation to functions for DB scheme funding only, TPR must minimise any adverse impact on the sustainable growth of an employer. This objective must be balanced against TPR's other statutory objectives, which are member focussed. This review has concluded that the regulator seems to be able to balance these differing needs effectively, regulating workplace pension schemes while minimising their adverse impact on the sustainable growth of employers.

Rule Making Ability

TPR could benefit from being able to respond more quickly to risks and changes in the pensions sector. Currently, changes to how TPR conducts its regulatory functions require legislative changes. For instance, some data requirements are specified in legislation which means Departmental and Parliamentary time and cooperation is required to change them. This results in some schemes being unable to comply with regulations because the regulations themselves cannot change at the same pace as the digital world.

By giving TPR the power to, with correct ministerial oversight and industry input, create rules governing the details of what information they require from schemes, TPR would be able to be a stronger more proactive regulator.

[9] Pensions Act 2014, https://www.legislation.gov.uk/ukpga/2014/19/contents

This would also put TPR more in line with the Financial Conduct Authority (FCA) in terms of powers. This would aid TPR's strength as a regulator and potentially resolve public confusion over the extent of TPR's powers.

The main benefits of this would be increased effectiveness, as TPR would be better able to respond to emerging risks. There would also be better efficiency for the government in terms of time saved for the Department and Parliament, and a distancing of TPR from political pressures, allowing it to function independently as it is intended to.

There could be a perception that this would result in decreased oversight of TPR, lessening their government accountability. TPR stakeholder reaction to such a measure is also unknown.

We have concluded that the Department should consider the benefits of extending TPR's powers to enable them to make rules in specific circumstances, and if this could enable the regulator to better achieve its goal of being clearer, quicker and tougher.

Does each function of TPR contribute to the core business of the organisation, to DWP and to the government as a whole?

TPR contributes to objectives across government, including the growth of the economy through proportionate, risk-based regulation, and the government's longer term strategy following the Pensions Commission, to have a fair pensions system.

How does TPR contribute to the work of DWP?

TPR's functions support the DWP's goal to "ensure financial security for current and future pensioners by: helping people to increase their pension savings; providing information on their private and state pension provision to enable effective planning for the future; and supporting older people to extend their working lives."[10]

TPR is also responsible for carrying out several Departmental initiatives, including the Automatic Enrolment programme and the authorisation of Master Trusts. TPR deserves praise for their effective implementation of AE compliance and enforcement, which has been a part of DWP's pensions policy since 2008.

10 Department for Work and Pensions, (2018), *Single Departmental Plan*.

How does TPR work with other government departments and ALB's?

TPR works with HMRC to obtain and share employer data when schemes register with HMRC for tax purposes, which supports TPR's enforcement of Automatic Enrolment.

TPR also works with various government bodies, as demonstrated by their published memoranda of understanding with the FCA, Prudential Regulation Authority (PRA) and Pension Protection Fund (PPF). They have recently been working closely with the FCA on Project Bloom, a joint scams campaign, and the two regulators published a joint strategy in October 2018.[11] This relationship is currently very effective, and should help decrease public confusion over the remits of the respective organisations by allowing them to present a single face to the public in their policies on the regulation of defined contribution schemes. To provide further assurance to the Department of the ongoing effectiveness of this important relationship, TPR should ensure they proactively monitor delivery against the joint strategy to provide assurance of the ongoing effectiveness of the relationship to the Department.

TPR has close relationships with other pensions bodies, including the Pensions Ombudsman and the PPF. TPR and PPF's Chief Executives each attend the Board meetings of the other organisation as observers, ensuring a close link between the two bodies.

With the recent merging of the Pensions Advisory Service, Money Advice Service and Pension Wise into the Single Financial Guidance Body, TPR will have a new organisation to build a relationship with. Recent events have raised TPR's profile with scheme members, causing TPR to need to find ways to communicate their work to scheme members as well as to the business community. Joint working with SFGB should help give scheme members clarity on each organisation's roles and responsibilities. TPR has already begun building a relationship with the new leaders of SFGB, and this review recommends that they continue this work with other bodies within the pensions landscape.

A barrier to TPR's relationships with other bodies is their information sharing capabilities, which are limited by legislation. For example, TPR could increase the effectiveness of their enforcement of AE if they had greater data sharing capabilities with HMRC (discussed further in Ch.5: Operational Effectiveness). Seeking ways to overcome this barrier and working with organisations to improve information sharing capabilities could help clarify TPR's role to the public and improve their regulatory effectiveness.

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[11] Financial Conduct Authority & The Pensions Regulator, (October 2018), *Regulating the pensions and retirement income sector: our joint regulatory strategy,* http://www.thepensionsregulator.gov.uk/docs/fca-tpr-joint-strategy.pdf

Is TPR’s current form the most appropriate for its functions?

There are three ‘tests’ which must be considered when establishing an Arm’s Length Body and TPR passes all three:

-Is this a technical function (which needs external expertise to deliver)?

Yes, evaluating whether schemes are being well run and enforcing pensions regulations requires technical expertise.

-Is this a function which needs to be, and be seen to be, delivered with absolute political impartiality (such as certain regulatory or funding functions)?

Yes, TPR’s regulatory functions mean that political impartiality is vital for the regulator to be seen as credible and fair in its regulatory activities. Such impartiality is expected best practice for all regulators.

-Is this a function which needs to be delivered independently of Ministers to establish facts and/or figures with integrity?

Yes. While the collection of broader industry data does not require independence from ministers, the collecting of evidence specifically for enforcement and prosecutions must be independent in order to ensure the credibility of TPR and the wider legal system.

Public body classification

TPR and the FCA

The idea of merging TPR with the FCA was discussed at length in the 2014 Triennial Review.[12] The Triennial Review concluded that the merging of the two bodies would not produce clear benefits overall and therefore is not worth undertaking.

TPR has recently performed a consultation with their stakeholders about their interaction with the FCA, partially to clarify their remits. The results of this consultation were published in a joint strategy in October 2018, which lays out their goal of deepening strategic alignment between the two organisations.[13] The consultation received 51 responses from a range of stakeholders, including provider firms, financial advisers and professional associations. The majority of respondents supported the current separation of TPR and the FCA. The joint strategy confirms

[12] Department for Work and Pensions, (2014), *Triennial Review of Pensions Bodies Stage 1: Options for delivery; Report by the Department for Work and Pensions on the Pensions Regulator, the Pensions Ombudsman, the Pension Protection Fund Ombudsman and the Pensions Advisory Service.*
[13] Financial Conduct Authority and The Pensions Regulator, (October 2018), *Regulating the pensions and retirement income sector: our joint regulatory strategy.*

that the two regulators have distinct remits which do not overlap, and sets out several streams of work to increase collaborative working. These include aligning policy positions where possible and carrying out joint stakeholder engagement activities.

This review has concluded that the two organisations are distinct in their missions, and would not benefit from being merged into one body. The FCA's involvement in the pensions landscape is in its regulation of contract based financial products, which are fundamentally aimed at making a profit. However, TPR regulates trust-based schemes, which have an obligation to act in the interest of their members. The two markets are therefore different in their basic purposes, and it makes sense to continue regulating them separately.

Non Departmental Public Body

This review found that TPR's current classification as a NDPB is enabling it to deliver its functions effectively. Their close links with the Department enable them to aid the government's creation of pension policy, using their expert knowledge of the occupational pensions industry to provide input on new policy. However, TPR could benefit from more freedom to mandate how they regulate schemes and how they use their departmentally-allocated money, as discussed above in 'Rule Making Ability' and below in 'Proportionate Oversight'.

While it would be possible for TPR, The Pensions Ombudsman, and the Pensions Protection Fund to merge into one larger pensions body, but it would not feasible and this would not produce meaningful benefits. The organisations already work closely with one another, but have distinct remits which are carried out by different organisational structures. To combine the organisations would require reconciling separate objectives and clashes of interest within the new organisation, and therefore would not currently be a better option than TPR remaining in its current state.

Devolution

TPR is the regulator for the whole of the United Kingdom. As pensions are not a devolved legislative area, TPR has consistent powers across the entirety of the United Kingdom.

TPR has made efforts to build relationships with leaders in the devolved administrations, and does communicate with these leaders if a large case demands it. For instance, when conducting the TATA Steel case, TPR communicated with the Welsh government in order to keep them informed on relevant information.

The UK's Exit from the European Union

Author's Note, March 2019: This review was drafted in November 2018, with the recommendations agreed with TPR at that time. We recognise that by the time this review is published much of the work suggested by this review will

> *have already been completed by the regulator, and applaud their swift action to address our concerns.*[14]

TPR is a member of the body of European pension regulators, European Insurance and Occupational Pensions Authority (EIOPA). Their future membership in this body following the UK's Exit from the European Union is as yet undecided.

We recognise that the regulator's role as part of the European regulatory community may change as the UK fully exits the European Union.

TPR has been a net contributor to EIOPA, and would therefore not be greatly impacted by leaving EIOPA. The potential removal of EIOPA's data collection requirements may allow the regulator to save resources which would otherwise have been devoted to fulfilling these requirements. However, by leaving EIOPA TPR would lose its existing abilities to share information with other European regulators, and so they would need to establish new information sharing agreements to maintain their ability to work closely with other countries. We recommend that TPR continues to work with the countries, such as Sweden and Ireland, they are most aligned with in order to share best practice and maintain a working relationship for cross border schemes. At the appropriate time, TPR should explore establishing information sharing arrangements to facilitate these relationships.

TPR's workforce will not be heavily impacted by the UK's exit from the EU, and TPR is currently communicating with their employees who are EU-nationals to support them through the changes.

TPR has clearly considered the risks presented by the UK exiting the EU, and we applaud their creation of a Brexit Working Group to understand and plan for the implications of the UK exiting the EU. TPR have also advised trustees to consider its impact on investment and funding.[15]

Whilst we are assured that the regulator has taken appropriate steps to ensure they are prepared for the internal risks caused by the UK's exit from the EU, they have been largely silent on the impact this event may have on the occupational pension schemes they have regulatory oversight of. As the UK occupational pensions industry is largely insular, the UK's exit from the EU should only have minimal if any impact on pension's legislation and may not have a significant impact on occupational pension schemes' day-to-day workings in the way it will on many other industries. However, investments form the foundation for pension schemes, and these may be impacted as the UK economy reacts to the changes. As a turbulent economy could substantially increase the risks of businesses failing, and therefore disrupting the workplace pension schemes they run, TPR should follow the lead of

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[14] https://www.thepensionsregulator.gov.uk/en/document-library/statements/exit-from-the-eu-statement

[15] The Pensions Regulator, (2018), *Annual funding statement for defined benefit pension schemes,* http://www.thepensionsregulator.gov.uk/docs/db-annual-funding-statement-2018.pdf

other public bodies and be issuing guidance to workplace pension schemes on how to best prepare for these risks.

We acknowledge that there are challenges to anticipating the impact of this event on the industry, particularly as the potential impacts and timescales of the process remain uncertain. However, we feel that TPR could be doing more to support the regulated community in preparing for the risks of Britain exiting the EU in order to better protect the savings of schemes' members. They could follow the lead of other public bodies, such as the Health and Safety Executive and the Financial Conduct Authority, and clearly signpost information about their preparations for the UK exiting the EU, and the preparations the regulated community should consider, on their website. TPR should go beyond assessing the risks and should take steps to enhance schemes' preparedness for the uncertainty ahead.

Recommendations

Form and functions

- **Recommendation 1:** The Department should consider the benefits of extending TPR's powers to enable them to make rules in specific circumstances, and if this could enable the regulator to better achieve its goal of being clearer, quicker and tougher.
- **Recommendation 2:** TPR should continue their work to connect with other organisations and improve its information sharing capabilities in order to improve the information available to pension scheme members.
- **Recommendation 3:** This review has found that TPR and the FCA are working together effectively on industry issues. TPR should ensure they proactively monitor delivery against the joint strategy to provide assurance of the ongoing effectiveness of the relationship to the Department.

The UK's departure from the European Union

- **Recommendation 4:** We recommend that TPR continues to work with the countries they are most aligned with in order to share best practice and maintain a working relationship for cross border schemes. At the appropriate time, TPR should explore establishing information sharing agreements to facilitate these relationships.
- **Recommendation 5:** The regulator should augment the work of its Brexit Working Group to consider what guidance and support it could offer its regulated entities at this challenging and uncertain time.

3. Arrangements between TPR and the Department

Is the current relationship between DWP and TPR effective and proportionate?

Roles and Responsibilities

The relationship between TPR and the Department, including roles and responsibilities, is set out in a published Framework Document.[16] The Department's Permanent Secretary is the Principal Accounting Officer for TPR and has designated the TPR Chief Executive as Accounting Officer. The Permanent Secretary is accountable for TPR's expenditure, performance and risk management, advised by the TPR Accounting Officer. The DWP Arm's Length Bodies (ALB) Partnership Division is responsible for oversight on behalf of Ministers and the Permanent Secretary, with dedicated partners overseeing TPR.

Engagement between TPR and the Department

TPR has many different interactions with the Department, as it works closely with the Department on pensions policy and programmes. TPR liaises directly with Departmental policy, financial, HR, and commercial teams as needed. TPR also has ministerial engagement, with meetings between the Chief Executive of TPR and the Minister for Pensions and Financial Inclusion taking place as needed. The Department utilises the guidelines set out in the Cabinet Office's 'Partnerships with arm's length bodies: code of good practice' when reviewing the partnership arrangements between the two organisations.[17]

Partnership Team

The relationship between the two organisations flows through the DWP Partnership team, and this review saw evidence of close relationships at many levels throughout both organisations. TPR discusses its corporate plan with the Department each year before sharing it with the Minister for Pensions and Financial Inclusion. TPR executives and Departmental partners meet for Quarterly Accountability Reviews, which consider TPR's performance against agreed objectives, funding and risks. The

[16] Department for Work and Pensions & The Pensions Regulator, (2015), *Framework Document,* http://www.thepensionsregulator.gov.uk/docs/framework-doc-tpr-dwp.pdf
[17] Cabinet Office, (2017), *Partnerships with arm's length bodies: code of good practice,* https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/594345/Partnerships_between_departments_and_arm_s_length_bodies-code_of_good_practice.pdf

Department also conducts an Annual Assurance Assessment for each of its Arm's Length Bodies. In 2018 this concluded that TPR is successful in its core functions and has a robust and thorough risk structure, but it is overall a 'medium' risk to the Department due to its high policy and strategic impact. Members of the Department attend meetings of TPR's Audit and Risk Assurance Committee, and monthly meetings between members of each organisation also take place. Aggregate ALB risks are also reported into the Departmental Audit and Risk Committee on a periodic basis.

DWP's Partnership team is also responsible for aiding TPR in the Public Appointments process. The Secretary of State is responsible for the appointment of TPR's Chair and for the appointment of other Board members after consulting the Chair. The Public Appointments team supports the Secretary of State in making their appointments, and also provides ad hoc support for the recruitment of executive Board members as required. At the time of writing, TPR is recruiting for a new CEO. The recruitment process has tested the relationship between the two organisations because of the length of time this process takes, however TPR have acknowledged DWP's support throughout the process.

It is worth noting that staff changes in the Private Pensions and ALB Partnership directorate could impact the relationship that currently exists between the Department and TPR, as much of the relationship depends on personal and working level connections. TPR's change of CEO could similarly impact on this relationship. Despite the changes of senior staff on both sides, we remain confident that the relationship will remain strong and effective. Both the Department and TPR should however consider their approach to such staff changes moving forward in order to ensure that the relationship between the organisations is not damaged.

In addition, TPR might consider appointing a key person with responsibility for the relationship, in order to maintain consistency in knowledge and contacts for the organisation when changes occur within the Department.

Automatic Enrolment

TPR also interacts with the Department as a member of the AE Programme Board. Currently, the Department's partnership with TPR is split in to two parts: Members of the ALB Partnership Division oversee the levy funded workings of TPR, while all grant-in-aid funded AE work is separately monitored by the AE Programme Board, made up of members from DWP, TPR and NEST. With the winding down of DWP's AE Programme, this arrangement will no longer be suitable, and plans are currently being made for the future oversight arrangements for TPR's AE functions.

The Department should take the opportunity of the closure of the AE programme to review the partnership arrangements with the AE division of TPR, in order to establish an effective arrangement for oversight of TPR's delivery of AE regulation.

One possible result could be that TPR's AE functions are overseen in a way more consistent with the oversight arrangements for the rest of TPR's functions and for other DWP ALB's. This could occur through moving oversight of TPR's AE functions under the oversight of the ALB Partnership Division, as we see no need for any additional levels of oversight for this programme. This would normalise the relationship, meaning TPR as a whole is overseen by the same team, and reduce duplication of efforts across the Department to monitor aspects of TPR. While the split funding arrangement would likely continue to exist, we believe the ALB Partnership team could meet this challenge, and benefit from having a clearer picture of the organisation as a whole.

Proportionate Oversight

Cabinet Office Controls are limits imposed on how much a government body can spend without having to first have the spending specifically approved by HMT. DWP has some influence over the application of Cabinet Office Controls to Arm's Length Bodies, but they are not the architects of the controls.

In the last year, the relationship between DWP and TPR has faced challenges concerning the application of Cabinet Office Controls to TPR's spending decisions. An example of this has been the Marketing Delegation, which DWP has applied to TPR in line with its application of Cabinet Office Controls to all of its Arm's Length Bodies. TPR has strong internal assurance procedures, and we question whether the current controls recognise this and give TPR the independence to perform its regulatory functions. This review recognised that such oversight of spending is important, but encourages the Department to conduct a proportionality review on what controls are necessary for the amount of risk incurred by TPR's spending decisions. This is a well governed, well run organisation, and TPR should be empowered to deliver their functions to the best of their abilities.

Recommendations

Relationship with the Department

- **Recommendation 6:** Both the Department and TPR should take steps to ensure that the introduction of new staff safeguards the relationship between the two organisations
- **Recommendation 7:** The Department should take the opportunity of the closure of the AE programme to review the partnership arrangements with the AE division of TPR, for example by aligning oversight into the existing Partnership approach for the organisation
- **Recommendation 8:** The Department should review TPR's budget delegations to ensure that the requirements for departmental approval are proportionate and recognise that TPR has strong assurance measures in place

4. TPR Governance

TPR is an independent statutory body governed by a unitary board comprising both executive and non-executive members. The Board's composition, powers, functions, committee structure and responsibilities are set out in the Pensions Act 2004[18] and Pensions Act 2008.[19] The Secretary of State for Work and Pensions is accountable to Parliament for the activities and performance of the Pensions Regulator and makes all Board appointments, but cannot intervene in the exercise of its regulatory functions. As an Arms' Length Body of the Department for Work and Pensions, TPR's Board follows the principles of the 'Government Code of Good Practice on Corporate Governance'[20] and those set out in 'Managing Public Money'.[21]

TPR Board Composition

In October 2018 the TPR Board is composed of a Chair, six non-executive directors, a Chief Executive and three executive directors, with further members of the Executive Committee attending meetings to provide advice upon request. There was one executive vacancy about to be filled. The Board is responsible for setting the strategic direction of the regulator, making key decisions on policy, and ensuring that TPR is effectively run.

The Secretary of State is responsible for the appointment of the Chair and for the appointment of other Board members after consulting the chairman, as well as for determining their terms and conditions. The current schedule of appointments is well staggered, allowing for knowledge and experience to be retained when the membership of the Board changes.

The Board currently contains members with strong expertise and a wide range of skills. However, as the needs of the organisation change during its transformation into a 'clearer, quicker, tougher' regulator, it is important that the collective skills of the Board change to reflect these needs. The recent appointment of new Executive Directors from varied backgrounds will support the programme of change, but a gap remains for a non-executive Board member with specific expertise in organisational

[18] Pensions Act 2004
[19] Pensions Act 2008
[20] HM Treasury & Cabinet Office, (2017), *Corporate governance in central government departments: code of good practice,* https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/609903/PU2077_code_of_practice_2017.pdf
[21] HM Treasury, (2013), *Managing Public Money,* https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/742188/Managing_Public_Money__MPM__2018.pdf

and digital transformation. The Board is already aware of this gap, and should seek to fill it when the opportunity arises.

We considered the risk to the delivery of the TPR Future programme with the departure of Lesley Titcomb at the end of her contract in February 2019. The Board is committed to TPR being a clearer, quicker and tougher regulator and we have confidence that the executive team has the ability to continue its good work on the change programme under a new Chief Executive.

TPR Board Committees

The TPR Board has 3 standing committees as follows:

- Non-Executive committee
- Audit and Risk Assurance committee (ARAC)
- Remuneration committee

The Audit and Risk Assurance, and Remuneration committees are sub-committees of the non-executive committee and as such do not have any executive members. These committees provide assurance to the TPR Board in their area of focus and allow more time for consideration of specific issues. The 2018 external board effectiveness review (see below) has considered TPR's Board structure and effectiveness in depth, and we have concluded that the current committee structure is effective at supporting the needs of the Board.

Effectiveness

An independent external review of the effectiveness of TPR's Board and its committees took place in autumn 2018. The review, conducted by Independent Audit Ltd., considered the effectiveness of the Board in discharging its responsibilities and whether the appropriate mechanisms and structures are in place for the Board to operate collectively, provide scrutiny and challenge to ensure TPR is meeting its long-term objectives, and advise on strategic and operational issues affecting the regulator's performance. To prevent duplication of efforts we have taken a light touch approach to reviewing the effectiveness of the TPR board as part of this review. However, we have liaised closely with the board effectiveness reviewers and have had full sight of that review's findings and recommendations. We have also extensively interviewed Board members and attended a Board meeting in order to form our own conclusions.

We have concluded that TPR's Board is well run and effective at setting strategy for the organisation. The organisation utilises the expertise of its non-executive directors who are kept well informed of the workings of TPR. The Board appears to be an effective decision-making body, and has sufficient oversight of the vast programme of change currently taking place as well as providing challenge.

TPR Executive Committee

The Chief Executive is supported by the Executive Committee in fulfilling their responsibilities as TPR Accounting Officer. These responsibilities include ensuring adequate financial systems, business planning, governance, and compliance with 'Managing Public Money'.[22] The Executive committee manages the day-to-day running of the organisation, setting TPR's operational direction and ensuring that TPR's functions are carried out efficiently and effectively.

TPR is in the process of introducing new executive director and director positions, all of which will be filled by December 2018: Executive Director of Strategy and Risk, Director of Supervision, Director of Enforcement, Director of IT and Director of Change. These new positions will allow more attention to be paid to these areas, which will benefit from increased focus as TPR changes its operating model.

Risk Management and Internal Audit

TPR has a robust control framework and an assurance framework which it is in the process of updating and embedding. The TPR Board sets the risk appetite annually, reviews the risk register and risk heat-map bi-annually and monitors risks throughout the year. TPR's Executive Risk Committee is responsible for agreeing the top cross-cutting risks facing the regulator which are in turn escalated to the ARAC for review.

TPR's internal audit is provided by external auditors procured via a Government Internal Audit Agency (GIAA) framework agreement. Internal audits are used to supplement internally provided assurance functions. 2017/18 audits included cyber security, project governance and processes, and policy evidence and research.

TPR has greatly developed their regulatory assurance function in recent years, introducing a dedicated team to perform this function. Its impact is keenly felt across the organisation. We encourage TPR to continue embedding their regulatory assurance function and to be clearer on measuring the impact of that function.

How diverse and transparent is TPR's Board?

TPR Board Diversity

The Board currently comprises of 4 males and 7 females (with one executive vacancy about to be filled with another female). None of the Board members are from Black, Asian or Minority Ethnic (BAME) backgrounds. While the diversity of all of TPR's staff reflects the makeup of the local area, TPR regulates the whole of the UK. The leadership of the organisation could therefore be more representative of the

[22] HM Treasury, (2013), *Managing Public Money*

population they regulate, and so the lack of ethnic diversity could be considered when TPR next recruits for the Board.

Remuneration

The position of TPR as a public body means that many non-executives are motivated by public duty rather than just remuneration. However, it is also important to ensure the remuneration enables the recruitment of the desired standard of non-executive board members. In 2017/18, TPR non-executive Board members received remuneration of £15-20,000 per annum. The chair of the Audit and Risk Assurance Committee received £20-25,000 per annum, and the Board Chair received £70-75,000 per annum. This is in line with the boards of other comparable regulators and appears appropriate.

Transparency

The TPR Board meets around nine times a year, including two Board 'away day' meetings to allow for broad strategic discussion. Board minute summaries are available on TPR's website. TPR also publishes regular updates on a range of its activities, including quarterly Compliance and Enforcement Bulletins which provide information about cases and regulatory powers used.

Recommendations

Governance

- **Recommendation 9:** TPR should seek to add a Board member with experience in organisational and digital transformation at the next available opportunity. This could also be an opportunity to increase the ethnic diversity of its Board members.

5. Operational Effectiveness

TPR's primary role of protecting workplace pensions means they have a wide remit, ranging across Defined Benefit (DB), Defined Contribution (DC), and Public Service schemes (PS). They also have responsibilities for enforcing Automatic Enrolment (AE) and for the authorisation and supervision of Master Trusts. Based on the performance data examined by this review, TPR continues to perform well against its objectives, and has seen the need to change its approach to regulation in order to better suit the current needs of the market.

While this review will assess TPR's current effectiveness, it is important to note that TPR is in the midst of vast organisational change, the TPR Future programme, and that this is impacting every aspect of TPR. This programme will be considered within this chapter, with the understanding that it has the potential to alter TPR's operational effectiveness in future.

Business planning

TPR's Board decides Corporate Priorities for the organisation annually. These are published in the Corporate Plan and measured by Key Performance Indicators (KPIs), progress against which is tracked throughout the year by the Board and then published in the Annual Report and Accounts. The Corporate Priorities and KPIs then feed into directorate plans. The DWP ALB Partnership team also undertakes a light-touch review of the plans, considering cross-cutting issues and reviews progress at each Quarterly Accountability Review.

TPR also defines Outcomes, which are closely aligned to their statutory objectives. These are broader than the Corporate Priorities, tracking TPR's wider role in the context of providing good retirement outcomes. These are tracked and measured by Key Outcome Indicators (KOIs), also approved and monitored by the Board. TPR has recently agreed refreshed Outcomes and KOIs. These are created to be achievable by being set at the level of the regulator's remit, while recognising the need to proactively collaborate with partners, including the FCA and the DWP, to progress wider, systemic outcomes. This work has increased TPR's ability to effectively assess how well they are fulfilling their statutory objectives, and should be continued.

Governance

The number of operational and decision making bodies in the regulator is large. There are a large number of committees and structures particularly in the Front Line Regulation directorate, partly due to its wide remit. This can slow the escalation of ideas and risks through the organisation, and prevent efficient decision making. As the regulator begins to put their new organisational design in place, we encourage them to evaluate whether the decision making processes within the organisation can be streamlined.

Measuring and Improving Performance

Performance is measured against the KPIs and KOIs determined in the business planning process, and monitored throughout the year at Executive Committee and Board level. TPR missed only one of its KPIs in 2017-18: "KPI 5.1 – Trustees and employers are clear on our expectations of them," because activities to support it were de-prioritised in year. All other KPI's were met, and these KPIs were designed to meet TPR's 2017-18 Corporate Priorities:[23]

1. Successfully complete the remaining stages of the roll-out of automatic enrolment
2. Deliver more interventions more quickly where DB schemes are underfunded or avoidance is suspected
3. Protect consumers through the effective regulation of master trusts
4. Drive up standards of record-keeping and data maintenance, including public service schemes
5. Be clearer in our codes, guidance and other interactions with schemes and employers about what we expect of them
6. Drive up standards of trusteeship across all schemes, with a particular focus on chairs and professional trustees
7. Develop and commence implementation and explain publicly our enhanced approach to regulation, to make us more effective and efficient as a regulator
8. Create high performing teams

These priorities clearly support TPR's effective delivery of their statutory functions, setting measurable goals to both improve TPR's own ability to regulate schemes and the effectiveness of their regulatory operations.

'Key Requirements': DB and DC Codes

TPR has a code of practice for each type of scheme it regulates, which acts as a guideline for how scheme administrators can meet regulatory requirements. In this section, we will be considering the codes for DB and DC schemes. The DB and DC Codes are not statements of law, and therefore it is not mandatory for schemes to comply with them. However, the guidance available to schemes constantly refers back to these Codes, using them as the baseline for the correct running of schemes.

The refreshed KOIs being implemented to track 2018-19 Outcomes measure schemes against key requirements outlined in these codes:

[23] The Pension Regulator, (2018), *Annual Report and Accounts,* http://www.thepensionsregulator.gov.uk/docs/annual-report-and-account-2017-2018.pdf

KOI 2a: Members are in well run schemes.

This is measured by the proportion of employers in schemes that meet key governance requirements.

Status in June 2018: 58%

KOI 2b: Members receive the benefits they are entitled to.

Measure ii) Proportion of DC members in schemes that comply with legal requirements relating to value for members, investments and prompt transactions

Status in June 2018: 54%

These key requirements are different for each type of scheme: DB schemes are measured against seven principles of the DB code (Proportionality and Well Governed not surveyed);[24] DC schemes are measured against the five key governance requirements stated in the DC code.[25]

Tracking these outcomes should help TPR focus on improving the number of schemes that comply with key requirements, but does raise the question of whether such 'key requirements' are correct measurements of how well a scheme is performing.

This concern is supported by the results of the 2017/18 DB and DC Surveys commissioned by TPR. The DB Survey[26] measured the performance of DB schemes against the principles of the DB code, and found that 19% of all schemes met TPR's expectations under each of seven code principles. The DC Survey[27] found that 5% of schemes meet all their key governance requirements. While these numbers are not truly comparable, as the measures are different and the types of scheme differ fundamentally, they do demonstrate that the codes are not adhered to by many schemes.

These figures are mitigated by several factors. The number of schemes that do not meet key principles/requirements does not reflect the number of scheme members in schemes that meet them. For example, for DC schemes 54% of members are in schemes that meet all five KGRs (a number that has risen greatly from 32% in 2017, driven by the increased number of members in Master Trusts). This is due to the large number of micro and small schemes which do not realise the codes apply to them. It is also worth noting that when measuring the percentage of schemes that meet a specific principle or key governance requirement, numbers are much higher.

[24] The Pensions Regulator, (2014), *Funding Defined Benefits,* http://www.thepensionsregulator.gov.uk/docs/code-03-funding-defined-benefits.pdf
[25] The Pensions Regulator, (2016), *Governance and administration of occupational trust-based schemes providing money purchase benefits*, http://www.thepensionsregulator.gov.uk/docs/code-13.pdf
[26] IFF Research, (2018), *Defined benefit trust-based pension schemes research,* http://www.thepensionsregulator.gov.uk/docs/db-research-summary-report-2018.pdf
[27] OMB Research, (2018), *Defined Contribution trust-based pension schemes research,* http://www.thepensionsregulator.gov.uk/docs/dc-research-summary-report-2018.pdf

These statistics are surprisingly low for an organisation that in other measures seems to be performing its functions well. The regulator acknowledged that the numbers are low and that they are working to improve them, however we think that the key requirements may not give an accurate picture of whether a scheme is well run and protecting its members. This is not an assessment of whether the current codes are stringent enough, but instead an observation that the current low compliance statistics suggest that they do not appear to measure the correct requirements.

The large range of different types of schemes regulated by TPR also presents challenges when trying to create one code that applies to a whole sector or schemes. The incorporation of the European Pensions Directive, IORP II, into UK legislation should lessen this challenge by creating more common standards across schemes. The directive has been transposed into UK legislation as the Occupational Pension Scheme (Governance) (Amendment) Regulations 2018, and will come into force in January 2019.[28] From that time the Pensions Act 2014 will require all DC and DB pension schemes to establish an effective system of governance that is proportionate to the scale and risks of their scheme. The regulations set out the elements that the system of governance must comprise, and how TPR must articulate what it expects a proportionate approach to those elements to look like.

While we recognise that the upcoming IORP II regulations will improve standards of scheme governance, we still recommend that the regulator assess whether the codes of practice they measure schemes against are the correct minimum standards of compliance they expect of all schemes. This would assist TPR in its mission to become ‘clearer’, clarifying to schemes what things the regulator asks of them are requirements and what are merely guidelines.

Public Sector schemes

The Public Service Pensions Act 2013[29] and the Public Service Pensions Act (Northern Ireland) 2014[30] extended TPR’s remit, giving it responsibility for regulating the governance and administration of Public Service Pension Schemes (PSPS). TPR’s focus is therefore on driving up standards of governance and administration with PSPS, and proactively identifying failings in governance and administration in these schemes. TPR monitors six key processes to measure PSPS performance, and all six have shown improvement since 2015, when TPR began their regulatory function in this area. Between 2015 and 2017, the percentage of schemes that have procedures to identify, assess and report breaches of law has increased from 53% to

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[28] Occupational Pension Scheme (Governance) (Amendment) Regulations 2018, http://www.legislation.gov.uk/cy/uksi/2018/1103/made

[29] The Public Service Pensions Act 2013, http://www.legislation.gov.uk/ukpga/2013/25/contents/enacted

[30] Public Service Pensions Act (Northern Ireland) 2014 https://www.legislation.gov.uk/nia/2014/2/contents

90%, and the percentage of schemes that have access to knowledge, understanding and skills needed to run the scheme has increased from 73% to 93%.[31]

Such dramatic improvement shows the effectiveness of TPR's regulatory approaches, particularly in the area of educating schemes about what standards are expected of them. The regulator's proactive engagement with a cohort of schemes which has stalled in making good progress on governance on administration matters should also aid continued improvement in schemes, and this approach will continue under the new operating model.

The complexity and age of many PSPS has meant that they are a challenge to improve, particularly as many of them face tight budgets. An example of the challenges TPR faces in this area is poor data standards in schemes, as the age and size of schemes make such issues difficult to rectify. Despite this, TPR's regulatory approaches do appear to be having a positive effect on the standards of governance and administration of PSPS.

Automatic Enrolment

TPR has effectively implemented the Automatic Enrolment programme since this was added to their functions in 2008. The programme has now enrolled almost 10 million members into pension schemes, and has hugely contributed to the government's goal to "ensure financial security for current and future pensioners."[32] This review commends TPR's efforts in carrying out the AE programme so successfully.

A specific aspect of AE that has been successful has been the use of Real Time Information. HMRC shares data with TPR, which allows TPR to use more targeted communications. If the quality and quantity of this data could be improved, for example through the use of automated data feeds, it would reduce the burden on schemes and employers to provide information to TPR. Therefore, we recommend that the regulator seek improved methods of gathering data in order to decrease the regulatory burden on schemes.

AE compliance and enforcement has always been run separately from TPR's other functions due to its separate funding arrangements. However, the implementation of AE has produced much valuable learning, which TPR is now seeking to utilise to support regulatory functions in other areas. This transfer of ideas across the organisation will be made easier with the new operating model currently being implemented, and should contribute to effective regulation across TPR's portfolio.

[31] OMB Research, (2017), *Public service governance and administration survey 2017*, http://www.thepensionsregulator.gov.uk/docs/public-service-research-2018.pdf
[32] Department for Work and Pensions, (2018), *Single Departmental Plan*, https://www.gov.uk/government/publications/department-for-work-and-pensions-single-departmental-plan/department-for-work-and-pensions-single-departmental-plan-2018

Stakeholder opinion/public standing

This review did not focus on collecting viewpoints from external stakeholders of TPR, due to low priority of the review and because of the abundance of stakeholder data collected by TPR itself. TPR runs both an Annual Stakeholder Survey and an annual Stakeholder Perceptions Survey, both of which are presented to the Board for consideration and are used in developing communications strategy. Though stakeholder confidence in TPR was shaken by news coverage of the regulator over the course of 2016-17, as of October 2018 two thirds of stakeholders surveyed rated TPR's overall performance over the last year as 'very good' or 'good'.

TPR also proactively consults stakeholders about decisions relating to policy and strategy, and held 9 consultations between January 2016 and October 2018.

Risk Management

TPR has a strong risk management framework, made up of divisional and organisational risk committees and the Board Audit and Risk Assurance Committee. Regulatory risks to the organisation's Outcomes are identified and prioritised so that they can feed back in to regulatory strategy and approaches. TPR also has a strong regulatory assurance function, with a dedicated regulatory assurance team to apply the function across the organisation.

The Determinations Panel provides a further level of regulatory assurance. It is a committee of TPR but operates separately from other parts of the organisation. Certain powers given to the Regulator can by law only be exercised by the Determinations Panel. The case team and the Panel are independent of one another in their consideration of a case. This allows for serious regulatory action to be decided independently of the case team who investigated it. The Determinations Panel also rules on all Master Trust authorisations (this is a new function which began on October 1, 2018). Extra Determinations Panel members have been appointed to manage the temporary increase in cases this role is expected to produce.

The TPR Future programme has also prioritised improving risk identification, particularly in improving TPR's Horizon Scanning function. Currently TPR lacks the analysis capabilities to fully model scenarios and therefore prepare for the impact of some macro risks. We believe this the ability to identify future risks and model scenarios will be an area of importance, particularly in times of significant change, such as the UK's exit from the European Union. By improving their capabilities in horizon scanning and scenario planning, TPR will be able to spot emerging risks and regulate 'at risk' schemes accordingly.

TPR Future

Recognising the need to change their approach, TPR have changed their strapline from 'educate, enable, enforce' to 'clearer, quicker, tougher' to reflect their new approach to regulation. This change of approach involves change at every level of the organisation, and is all tied together under the TPR Future programme (TPRF). TPRF began in 2017, and is currently in its implementation phase, which involves the establishment of an entirely new operating model.[33]

TPRF is built upon four key areas:

1. Setting clear expectations
2. Identifying risk early
3. Driving compliance through supervision and enforcement
4. Working with others

The work toward setting clear expectations should allow TPR to better regulate by making sure that all regulated schemes are aware of what standards they need to meet, and are clear on how they meet them. Work has already begun in this area with the '21st Century Trustee' programme, which aims to educate Trustees about how to be effective trustees. This active effort to educate schemes is an important first step towards increasing standards across the industry.

The areas 'identifying risk early' and 'driving compliance through supervision and enforcement' are both encapsulated in the new operating model which is in the process of being implemented. This operating model will apply flexibly to all aspects of TPR's work, providing increased consistency across the organisation. It will also allow ideas to be shared across the organisation, allowing for more effective regulation in all areas. The new operating model will have a big impact on TPR's regulatory approach. More schemes will have interaction with TPR at low and medium intensity levels, and a small number of high risk schemes will be subject to one-to-one supervision with a dedicated TPR supervisor. The purpose is to address emerging risks and issues quickly and to support those schemes who are seeking to comply. Enforcement powers will be used to back up this work to address serious or repeated non-compliance.

TPR's enforcement work has already increased in recent years, largely due to Automatic Enrolment, with the regulator taking on 132,653 cases in 2017-18 compared to 14,707 in 2016-17. Across its remit, TPR has become quicker to take action, including criminal prosecutions, fines, and improvement notices. This has addressed concerns that TPR was too hesitant to use its existing powers, and has made TPR appear 'tougher' to the schemes they regulate. We support TPR's decision to utilise their existing powers to their full effect, as it allows them to more effectively carry out their functions.

Overall we have concluded that TPRF is a robust programme of change to meet the future needs of the occupational pensions industry. We are assured that this approach is correct and that the change is being well managed within the organisation at all levels, with Board oversight and good communications to staff. Future challenges will include the successful implementation of the new operating

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33 The Pensions Regulator, (2018), *Making workplace pensions work,* http://www.thepensionsregulator.gov.uk/docs/tpr-future-making-workplace-pensions-work.pdf

model, as well as the full embedding of the changes, which are both operational and cultural, at all levels of the organisation. We are assured that steps are being taken to tackle these challenges and that TPRF will increase TPR's effectiveness as a regulator.

Recommendations

Operational Effectiveness

- **Recommendation 10:** TPR should take the opportunity of the reshaping of their organisation to review their current internal governance structures and streamline them
- **Recommendation 11:** The regulator should assess whether the codes of practice they measure schemes against are the correct minimum standards of compliance they expect of all schemes.
- **Recommendation 12:** TPR should seek improved methods of gathering data to monitor schemes, in order to decrease the regulatory burden on schemes and employers
- **Recommendation 13:** We recommend that scenario planning capability remains an area of focus for TPR and that resources are prioritised towards it

6. Organisational Effectiveness

Is TPR effective in recruiting, retaining and developing its people?

TPR have a People Strategy, which is monitored by the Board Remuneration Committee and reported back to the Board.

Recruitment and Retention

Between 2012 and 2018, TPR has grown from an average of 350 FTE to almost 700. This growth has stemmed from TPR taking on new roles such as the Automatic Enrolment programme. To meet the new needs of the organisation, TPR has increased their focus on ensuring skilled staff are recruited and retained. This is reflected in the regulator's 2017/18 KPIs:[34]

- A targeted proportion of advertised vacancies are filled with internal staff demonstrating that we attract, retain and allocate the right skills in the organisation.
    - Target 20% Achieved 47%
- Increased attendance at a limited set of core training modules each year for senior leaders.
    - Target 70% Achieved 75%

Staff retention rates are high, with 47% of advertised vacancies filled with internal staff in 2017/18, and this could in future pose a challenge to the regulator. Another challenge facing the regulator at this time is providing the right skill set to carry out the new operating model and other changes being made as part of the TPR Future programme (TPRF). Recruitment rates have been high, with 241 posts recruited to in 2017/18, showing that the organisation is largely able to meet these demands. However, the review team notes that TPR faces challenges: providing staff with the skills for the new 1-2-1 Supervision model requires retraining and recruitment; there is also increasing strain being placed on back office functions as the organisation grows. HR has been heavily involved in the TPRF programme and has been working on retraining employees to be able to take on new ways of working, and we encourage this work to continue to aid the organisation in its programme of change.

Staff Engagement

TPR's 2018 Speak Up staff engagement survey had a strong employee engagement score of 78%, above the target of 75% set in the 2017/18 KPIs. This is an excellent

[34] The Pensions Regulator, (2018), *Annual Report and Accounts*

result, compared to a 61% average engagement score across the Civil Service in the 2017 People Survey.[35] Responses in relation to job satisfaction and inclusion were strongly positive. Senior leadership are highly visible, with regular staff briefings led by the CEO. TPR has demonstrated their ability to respond to the results of their annual survey, for instance setting up an employee forum to increase opportunities for staff to raise any issues or concerns.

Remuneration

TPR has recently been undertaking a 'job evaluation and reward' exercise, working with a third party specialist provider to map roles to reward and grading structures, to ensure a fair and equal pay system, and to ensure consistency of salaries against other internal roles. We support the work being done in this area, as it will provide clarity to employees moving forward.

Employee Diversity

TPR sets annual equality objectives, with progress reported twice a year to the Executive and Remuneration Committees. The objectives for 2017-18 were:

1. Disability: ensuring a supportive workplace for staff with physical disabilities
2. Lesbian, gay, bisexual, transgender (LGBT+): promoting TPR as an LGBT+ inclusive employer
3. Flexible working: increasing flexibility for all staff

All three of these objectives were reported as 'achieved', and were published on the regulator's website. These objectives have remained as priorities for 2018-19 as TPR continues to focus on improving their levels of diversity and inclusion.

Ethnic Diversity

As of 31 March 2018, 7% of TPR's workforce declared they were from a Black, Asian and Minority Ethnic (BAME) background, and 79% declared they were of white origin.[36] This figure reflects the local population[37] of Brighton and its surroundings, where TPR is based. We note that the same level of ethnic diversity is not reflected in the Board and senior management of the organisation. TPR has a Minority Ethnic Network group and a director level champion of BME.

Whilst we applaud the effort the regulator has gone to so far to improve the level of diversity within its workforce, as a national regulator they should seek to make sure that its workforce represents the entire population it serves. While 7% of TPR's

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[35] Cabinet Office, (2017), *Civil Service People Survey 2017*, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/659565/Civil_Service_People_Survey_2017_Benchmark_scores.pdf

[36] The Pensions Regulator, (2018), *Staff Information*, http://www.thepensionsregulator.gov.uk/docs/workforce-profile.pdf

[37] Office for National Statistics, (2011), *2011 Census*, https://www.ons.gov.uk/peoplepopulationandcommunity/populationandmigration/populationestimates/datasets/2011censuskeystatisticsforlocalauthoritiesinenglandandwales

workforce has declared their BAME background, the percentage of the UK population who declare BAME background is nearly double this figure. As noted in Chapter 4, TPR's Board also lacks any BAME representation. The regulator should put in place a plan to have a workforce whose diversity more closely reflects the population they serve, which includes an ambition to increase BAME representation at Board level.

Disability

In 2017 TPR were recognised as a Disability Confident committed employer (Level 1), and have now progressed to Level 2 certification. Disability Confident is a government scheme developed to help employers successfully employ and retain disabled people and those with health conditions for their skills and talent. As a Disability Confident employer, TPR is committed to:[38]

- Inclusive and accessible recruitment
- Communicating vacancies
- Offering an interview to disabled people
- Providing reasonable adjustments
- Supporting existing employees
- One demonstrable action to make a difference for disabled people

TPR has also demonstrated their commitment to supporting people affected by mental health by creating and fulfilling a Time to Change Pledge action plan to tackle the stigma around mental health in the workplace.

LGBT+

in 2017/18 TPR began participating in the Workplace Equality Index which measures progress on lesbian, gay, bi and trans inclusion in the workplace. TPR also works with Stonewall, a best-practice employers' forum for sexual orientation and gender identity equality, diversity and inclusion, and are a Stonewall Diversity Champion. TPR has an employee LGBT Network to encourage a culture of respect and equality.

Gender Diversity

TPR gender diversity is well balanced overall. In 2017, 51% of employees were female and 41% were male.[39] However, there is gender disparity at various levels of the organisation, resulting in an overall 10.8% median gender pay gap. This is a positive number compared to the national median of 18%, but work remains to be done.

[38] The Pensions Regulator, (2018), *Equality objectives progress report,* http://www.thepensionsregulator.gov.uk/docs/equality-objectives-progress-report-2018.pdf
[39] The Pensions Regulator, (2017), *Gender pay gap report,* http://www.thepensionsregulator.gov.uk/docs/gender-pay-gap-report-2018.pdf

31 March 2017	Male	Female
1st pay quartile (lowest)	37.6%	62.4%
2nd pay quartile	48.2%	51.8%
3rd pay quartile	57.4%	42.6%
4th pay quartile (highest)	55.6%	44.4%

Although the Executive Committee has a majority of women (75% female), and senior leadership is fairly balanced (52.5% female), a gender pay gap remains in the 3rd and 4th pay quartiles. This is due to the large number of highly technical roles which are largely filled by men. Under-representation of women in technical and financial roles is driven by a skills shortage of women in these areas.

TPR is committed to having a fully inclusive workforce at all levels, and has a Women's Network to support women's career development. TPR is also working to increase opportunities for apprenticeships and internships in areas with a larger gender pay gap.

Recommendations

Organisational Effectiveness

- **Recommendation 14:** The regulator should put in place a plan to have a workforce whose diversity more closely reflects the population they serve, which includes an ambition to increase BAME representation at Board level.

7. Operational Efficiency

TPR Funding and Financial Planning

TPR receives its funding from two different streams. The General Levy charged on pension schemes in the United Kingdom is used to fund the regulation of occupational pension schemes, and it is collected by TPR and passed to the Department. The Department then distributes the levy amongst the pension bodies as Grant-in-Aid. The system of funding the regulator through a levy on the bodies it regulates is in line with the recommendations of the Regulatory Futures Review.[40] The levy funds all of TPR's work with the exception of Automatic Enrolment activities.

Automatic Enrolment (AE) regulation is funded through a separate Grant-in-Aid stream from the DWP AE Programme, and is treated separately from TPR's other activities.

The Department's ALB team works with TPR to monitor and review performance, risks and opportunities, with Departmental and TPR finance teams meeting periodically. TPR finance team carries out forecasting, budgeting, and financial activity in-house. Forecasts are updated regularly, with challenge from Departmental Finance Business Partners, who also attend TPR's Quarterly Accountability Reviews. This process works well and is supported by strong relationships on both sides. TPR is required to comply with the principles set out in 'Managing Public Money',[41] and is subject to the delegations set by the Department (as discussed in ch.3). TPR's responsibilities regarding financial planning are set out in the Framework Document.

The penalties issued to non-compliant schemes by TPR are collected by TPR on behalf of HMT and transferred over to the consolidated fund via DWP.

Net Expenditure by Operating Segment

Net expenditure includes staff costs, depreciation, amortisation and impairment charges, and other operating expenditure. It includes both interest and taxation. Further break downs of expenditure can be found in TPR's Annual Report and Accounts.

[40] Cabinet Office, (2017), Regulatory Futures Review
[41] HM Treasury, (2013), *Managing Public Money*

(£m)	2015-16	2016-17	2017-18
Levy	34.4	36.7	43.3
AE	28.4	38.1	40.2
Total (exc. Capital)[42]	**62.8**	**74.8**	**83.5**
Capital	1.0	1.2	0.8
Total (inc. Capital)	**63.8**	**76.2**	**84.3**

General Levy

Levy spending increased by £6.6m between 2016-17 and 2017-18, because of the introduction of new powers within levy regulation (such as Master Trust authorisation) as well as the costs associated with the TPR Future programme.

The Department is currently conducting a review of levy funding, which could result in future changes to the revenue collected through the General Levy.

The Department will continue to fund TPR so that they can carry out their functions. The Defined Benefit White Paper includes measures which may result in further expansion of TPR's remit and therefore increased funding requirements, but such funding requirements would be met by the Department.

Automatic Enrolment

The large increase in AE spending between 2015-16 and 2016-17 is largely due to the costs of the phased implementation of AE.

TPR also faces uncertainty over the future funding of their AE functions. The AE Programme within the Department is scheduled to close in the early months of 2019, and a small programme closure team has been created by the AE programme board to determine the future funding, management, and operation of the programme.

The large amount of uncertainty surrounding the future funding situation makes it challenging for TPR to make long term strategy decisions. This review therefore recommends that the Department continue to work towards resolving these issues in order to provide TPR with greater certainty.

[42] Total (excl capital) figures from TPR annual report and accounts. The annual report and accounts figures do not include capital spend.

Long Term Expenditure[43]

(£m)	Actual 2015/16	Actual 2016/17	Actual 2017/18	Forecast 2018/19	Projection 2019/20	Projection 2020/21
Total costs	63.8	76.2	84.3	87.7	95.6	91.2

Total costs are forecast to increase by 9.0% between 2018/19 and 2019/20, due to the increase of staff, the TPR Future programme, and technology and data investment plans.

Expenditure is not planned to decrease upon completion of the TPR Future programme, as the increased costs of the new operating model from new resources will continue as the new ‘business as usual’ state. Decisions regarding the outsourcing of AE services and the potential for TPR gaining new functions as a result of the DB White Paper will also impact TPR’s future costs.

Contracts

TPR has two major contracts currently running. A contract with Capita Business Services Ltd for services to enable Automatic Enrolment was agreed in 2011, and extended by the board in 2016. This contract is valued at £120.6m (excluding VAT). This contract is due to end in 2021, and TPR is currently using Treasury Green Book principles to evaluate whether AE services will be brought in-house or continue to be outsourced. This evaluation shows TPR’s commitment to getting value for money.

TPR also has a contract with PA Consulting Services Ltd for consultation on the TPR Future programme. This contract is valued at £5.3m (including VAT and expenses), and began in 2017. This contract is due to end in 2019, as with the programme implemented consultants will no longer be needed.

43 Actual and forecast figures from TPR management accounts. Projection figures from the TPR corporate plan 2018-2021

Operational Expenditure[44]

Total £m	2015/16	2016/17	2017/18	2018/19
Staff costs	35.2	37.5	44.3	50.6
Depreciation & amortisation & impairment charges	1.4	1.3	1.3	1.4
Accommodation	2.2	2.2	2.2	2.5
IT and Telecoms	1.9	2.8	3.3	4.5
Professional services	5.4	8.7	9.2	9.8
Travel and subsistence	0.4	0.3	0.3	0.3
Outsourced services	13.5	19.5	20.0	13.9
Other	3.9	3.9	3.6	4.7
Total	**63.8**	**76.2**	**84.3**	**87.7**

TPR has grown over the past decade, their average staff numbers increasing from 350 in 2012, to almost 700 in 2018/19. This has caused staff costs to rise, driving increased net expenditure.

TPR have gained better control over their finances, with the accuracy of their budget forecasts improving noticeably in recent years. As the organisation changes its structure, new efficiencies should be found as different divisions move closer together with the shared operating model, and share best practice across the organisation.

Staff Costs

Staff costs have driven the majority of the organisation's increased operational spending. The large increases in staff costs from 2017 forwards are due to the TPR Future Programme (TPRF), which requires increased staff to meet operational demands, such as the implementation of a 1-1 supervision strategy for the most at-risk schemes. Staff costs are forecast to continue to increase through 2021, when the full impact of TPRF will be seen.

[44] These figures are based on TPR management accounts and include fixed asset expenditure.

The Capita contract comes to an end in 2021, and TPR are currently exploring their options for the continued delivery of the services Capita provides. The impact of this on staff costs is not yet known.

When the new operating model introduced by the TPRF is in place, TPR will be able to reassess their resource needs and look to ensuring efficiency in their work force. TPR's work force efficiency should be revaluated in a future Tailored Review.

Accommodation

TPR is based in a single building in Brighton, with some additional functions outsourced to Capita with offices in Birmingham. The regulator occupies a Net Internal Area (NIA) of 3366m^2. As of March 2017, their ratio of square metre per full time employee (FTE) was 5.5, well under the government benchmark ratio of 8m^2 per FTE.[45] The regulator clearly uses their space efficiently, keeping accommodation costs under 3% of their total operational expenditure.

The increase in accommodation costs in 2018/19 is due to a lease review resulting in around a £0.1m increase, as well as additional room hire costs of around £0.1m due to space constraints in their existing building and £0.1m additional maintenance costs. The forecasted increase in staff numbers to meet the demands of the TPR Future program could put pressure on accommodation costs due to the spatial limits of the regulator's current site.

There is clear benefit to TPR being located in Brighton, due to its proximity to London, and therefore access to skilled staff. The lack of a London office has been an issue in recent years, as TPR takes on more high-profile cases as part of its 'tougher' approach. We are conscious of 'Places for Growth', the Cabinet Office led programme to encourage the movement and creation of jobs outside London. However, given the prevalence of the industry it regulates having a London presence, we would recommend that the regulator engages with the Office of Government Property to source suitable accommodation in London to support its work. During the course of the review, TPR has acquired office space in central London.

IT and Telecoms

Expenditure on IT and Telecoms has increased each year, with the 136.8% increase between 2015/16 and 2018/19 largely due to the regulator's switch to a cloud based IT solution, with the costs phased in across this time period. Spend on change activities also increased by around £0.5m a year over this time period.

TPR has acknowledged that their current IT systems are outdated and will require updating to meet the requirements of the new operating model. A large scale update

45 Cabinet Office, (2018), *The State of the Estate in 2016-17*, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/694950/WEB_CCS118_CCS1117337724-1_State_of_the_estate_for_web_Accessible__1___1_.pdf

of IT systems is therefore scheduled to take place over the coming years, and will be customised to best serve TPR's core regulatory work. While this will increase costs in the short-term, a well-structured IT system should improve operational efficiency and provide longer term savings.

Professional services

Professional services costs include Court Costs, External Audit, Internal audit, Legal/Solicitors Fees, and Research. These costs have increased by 17.5% since 2015.

The court costs and legal fees include the costs of cases TPR carries out in their enforcement of regulatory powers, and have consequently increased as TPR have increased their use of these powers.

Other professional services also include the costs of professional advisors to support the delivery of projects. This includes the contract with PA Consulting Services Ltd. for the design and implementation of the TPR Future programme.

Travel and Subsistence

Travel and subsistence spending has remained consistent in recent years, despite the growth of the organisation.

Outsourced Services

This is the Capita contract for services in relation to AE and employer duties. Its increase to £20m in 2017/18 and subsequent fall to £13.9m in 2018/19 reflects the changing numbers of employers required to declare or re-declare their compliance with AE duties, which drives a significant element of Capita costs. As employers are required to re-declare every three years, this pattern of peaks in costs will be repeated.

However, the provision of these services by an outsourced provider is currently being reviewed by the regulator in preparation for the Capita contract ending in 2021.

Other Expenditure

Other expenditure includes communications spend, training, recruitment costs, corporate subscriptions (e.g. EIOPA membership), and business intelligence. The £1m increase in 2018/19 is due to spending on an anti-scams campaign run jointly with the FCA.

Recommendations

Efficiency

- **Recommendation 15:** The Department should continue to work towards a decision regarding TPR's future funding arrangements in order to provide TPR with greater certainty

- **Recommendation 16:** TPR should engage with the Office of Government Property to source suitable accommodation in London to support its work. During the course of the review, TPR has acquired office space in central London.

8. Next Steps

The Tailored Review has worked closely with TPR, the Department for Work and Pensions and the Cabinet Office. All of the recommendations of this review have been accepted by TPR, the Department and Cabinet Office and approved by the Minister for Pensions and Financial Inclusion.

The next Tailored Review of TPR should take place in around five years' time and should consider the progress made against the recommendations of this review.