



**Pensions Ombudsman**  
**Pension Protection Fund Ombudsman**

# Annual Report and Accounts

**2018/19**





**Pensions Ombudsman**  
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**2018/19**

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. Ordered by the House of Commons to be printed 18 July 2019.

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## About us

The Pensions Ombudsman combines in one organisation the Pensions Ombudsman and the Pension Protection Fund Ombudsman. Our primary function is handling pension complaints. We act impartially and our service is free.

### ■ Pensions Ombudsman

The Pensions Ombudsman investigates and determines complaints and disputes concerning occupational and personal pension schemes. Our governing primary legislation is Part X of both the Pension Schemes Act 1993 and Pension Schemes (Northern Ireland) Act 1993.

We operate an early resolution service and a formal adjudication service. Wherever possible we resolve complaints informally at an early stage, frequently before the issues have been formally considered by the parties. At adjudication stage we investigate and determine complaints that were not resolved by the parties or by us at early resolution stage. Our determinations are final, binding and enforceable in court.

### ■ Pension Protection Fund Ombudsman

The Pension Protection Fund Ombudsman determines complaints and reviewable matters concerning the Pension Protection Fund; and also appeals against it in respect of its decisions as manager of the Financial Assistance Scheme. Our governing primary legislation is sections 209 to 218 of the Pensions Act 2004 and sections 191 to 197 of the Pensions (Northern Ireland) Order 2005.

### ■ Status and funding

We are a non-departmental public body and are funded by the Department for Work and Pensions. The grant-in-aid that funds us is largely recovered from the general levy on pension schemes that is administered by the Pensions Regulator.

In 2018/19 the organisation received £6,666,349 grant-in-aid, incurred net expenditure of £6,045,668 and had net assets at 31 March 2019 of £1,182,685. Full details are in the accounts.

Our principal place of business is 10 South Colonnade, Canary Wharf, London E14 4PU.

## ■ Our vision

A trusted, fair, impartial service that makes it easy for everyone to resolve pension complaints.

## ■ Our aims

**Get the right outcome every time and in good time** – by being proportionate, efficient and consistent with the law.

**Make it easier to resolve complaints about pensions** – by ensuring more people know where to go for help and by working closely with our stakeholders and partners.

**Provide a trusted, accessible service** – by listening, delivering on promises and being honest about what we can and cannot do.

**Deliver value for money** – by making a difference to how pension schemes are run and by continually reviewing and improving the way we work.

**Ensure everyone who works here is supported to succeed** – by being a good employer and helping people develop their potential.

## ■ Our values

**We are:** **Fair** – we look at the facts, without taking sides and we are always impartial. We take our responsibilities seriously.

**Collaborative** – we share what we know so everyone can do a better job. We seek out opportunities to work with others and then take action to make it happen.

**Open** – we are approachable and make it easy for people to get the help they need. We are honest and transparent about how and why we make our decisions.

**We:** **Show respect** – we are considerate and take people's needs into account. We believe in treating people with dignity and we welcome different points of view.

**Build trust** – we take pride in our work and do our best to get it right. We always do what we say we will.

**And we:** **Keep learning** – we are open to change and want to find better ways of doing things. We stay positive, take charge of our own development and support people trying something new.



**Pensions Ombudsman**  
**Pension Protection Fund Ombudsman**

# Performance report: Overview

The overview section provides a statement from the Pensions Ombudsman on the performance of the organisation in 2018/19. It sets out our purpose and role along with our strategic aims and objectives.







## Ombudsman's introduction

It has been another significant year for The Pensions Ombudsman (TPO) as we have embedded and built on the major changes that took place at the end of 2017/18; namely the introduction of the early resolution of complaints and our office relocation.

This is our first Annual Report that includes the work of the Early Resolution Team who joined us from The Pensions Advisory Service (TPAS) in March 2018. As well as our usual investigations, we now deal with all early resolution disputes, bringing nearly all pensions dispute resolution under one roof.

Our 240 volunteer pension specialists have proved to be an amazing resource for us. Their dedication, expertise and generosity with their time, has helped us to resolve 2,000 early resolution cases over the year, a tremendous accomplishment and an incredible saving for the public purse.

We recently celebrated our first anniversary at the Government Hub in Canary Wharf. Our smarter working initiative not only remains extremely popular with staff but has meant that, despite an increase in headcount, we have not required any additional space in our new home, delivering efficiencies in the cost of accommodation per person.

We have continued to make improvements to the customer journey by resolving disputes and completing investigations at the earliest possible stage. Now almost 90% of cases are concluded without an ombudsman's intervention, making it quicker and easier for all parties involved. Over the last year, we have experienced a modest increase of 5% in traditional investigations but have also dealt with an additional 3,526 early resolution disputes; this means our output has tripled when compared with last year.

In May 2018 we made further changes to our approach by establishing a dedicated First Contact Team to handle all enquiries, by phone and in writing. The team's aim with every contact is to engage, educate and, where possible, resolve the dispute. Over the past year, they have dealt with an incredible 8,205 telephone enquiries and 7,215 written enquiries.

Another area where we have made great strides in improving our customers' experience is by introducing a quality evaluation team. Following a comprehensive audit of our processes, we have agreed a Customer Journey Quality Framework that adopts ISO 9001:2015 standard principles to ensure consistency and high-quality interactions with our customers. Further work will be carried out next year to roll out new quality audits across the service.

Our Digitalisation Programme continues to gather pace and in March 2019, we launched our new Case Management System. Not only will this cut down the time spent on administrative tasks, it will take us a step nearer to our vision of

a paperless office. It will also improve our ability to collect management information, making it easier for us to spot trends and spikes in demand so we can allocate resources accordingly.

Development of the customer portal for our website is nearing completion and, following a period of user-testing, will be launched shortly. This will allow customers to complete applications online, upload documents and make web enquiries. Further developments next year will extend this functionality to respondents and our volunteers, as well as enabling customers to track the progress of their case.

A vital part of our work to improve our customers' experience is giving them a voice, so I am delighted that we held our first Consumer Panel earlier this year. Made up of a small contingent of consumer-focused organisations, the group had its inaugural meeting in March to discuss how we can work better together and gather meaningful feedback from our customers. In addition, this year we developed two customer surveys to capture responses from our early resolution cases as well as investigations. Further analysis is underway to draw up an action plan so that we can incorporate the feedback into ensuring that continuous improvement is focused on our customers' needs.

Our Stakeholder Engagement Programme goes from strength to strength and we have established and maintained relationships with a wide range of influential individuals and organisations. Not only do we want to share our ambition and approach with the wider pensions industry, we also need to listen to what they have to say. Our stakeholder event in February was a great success in bringing together people to network, share experiences and provide examples of good practice.

We have continued to work collaboratively with partner organisations, including the newly-formed Money and Pensions Service. Through sharing insight, we were able to take action concerning some stakeholders' reluctance to signpost to us without the corresponding legislation being in place. We worked closely with the Department for Work and Pensions (DWP) and The Pensions Regulator (TPR) to address this issue and, in September 2018, we welcomed their approach in clarifying the signposting provisions for referring to TPO, where previously the signposting had been to TPAS.

That same agreement also recognised that if the parties agree, customers using the Ombudsman's early resolution service will not be expected to have first used a scheme's internal dispute resolution procedure (IDRP).

Meanwhile, with the change of approach to the way in which we now resolve complaints, there has also been a government consultation on amending our powers, which includes closing cases without the need for a Determination, and to mediate and resolve a complaint before going through an internal dispute resolution process. We look forward to engaging with the DWP to progress legislative changes.

In January this year, DWP conducted a Tailored Review of TPO to ensure we remain fit for purpose, well governed and properly accountable. We expect the report to be published in the autumn.

At the end of the year we had 82.7 (full time equivalent) members of staff, up from 72.3 the previous year. Our staff and volunteers are our greatest asset and I consider myself extremely fortunate to have such a fantastic team to work with. They each have a unique range of skills, incorporating specialist technical expertise alongside excellent customer service.

Over the past year, we have invested in our staff by reviewing our learning and development and running workshops to introduce a new performance framework based on the Ombudsman Association's competencies, that was launched on 1 April 2019.

But it's not all about resolving disputes and concluding investigations. To help with integration and team building more generally, we held a highly successful staff conference last November and have continued with our Give and Gain events where we release our staff for the day to support local communities through volunteering. Last year a team of TPO staff cleared reeds from one of the lakes at Greenwich Peninsula Ecology Park, creating a bigger range of habitats for the winter; whilst the other cleared brambles and undergrowth from a children's play area at Mudchute City Farm, a very popular activity centre for the local community in east London.

I am delighted to have been reappointed for a further two years, to 31 July 2021, and I am looking forward to completing our transformation to make pension dispute resolution quicker and easier for the public and also the pensions industry. I am also very pleased that Karen Johnston, Deputy Pensions Ombudsman, has been reappointed until June 2020.



**Anthony Arter**

Pensions Ombudsman  
Pension Protection Fund Ombudsman

8 July 2019

## The year in summary

### Key facts and figures

#### Pensions Ombudsman



We received **8,205 phone enquiries** (new or repeat) from people who thought we might be able to help them



We completed **1,268 investigations**



We received **5,759 written enquiries** (not including quick responses, see page 17)



We resolved **5,545 written enquiries**



We received **2,566 early resolution cases** (50% more than anticipated)



We resolved **2,165 early resolution cases** (99% of target)



We received **1,456 written quick responses**



We resolved **1,361 written quick responses**



The most **common reasons** for not taking complaints on for investigation:

- The complaint was not made within the time limits
- The complaint was not raised with the parties
- The topic was not within our jurisdiction



We took on **1,528 new investigations**



**80%** of all completed investigations were investigations completed by informal routes



The most **common topics** of completed investigations:

- failure to provide information or act on instructions
- transfers - general issues around calculation of transfer values or delays in payment
- incorrect calculation of benefits



Around **28%** of complaints determined by an Ombudsman were upheld, at least in part



## Key performance indicators

### Pensions Ombudsman



**What we said we would do**  
Complete new investigations within, on average, **six months** from the date on which we had a valid application



**What we did**  
The average time to complete new investigations was **5.3 months**



Complete **1,400** investigations



We completed **1,268** investigations

### Pension Protection Fund Ombudsman

Pension Protection Fund Ombudsman referrals form a very small part of our work. We received **13** referrals in the year and accepted **5** for investigation. We completed **7** cases





## Finances

In 2018/19 the organisation received £6,666,000\* grant-in-aid and incurred net expenditure of £6,046,000\*. This increase in expenditure from £4,536,000\* in 2017/18 links to the increased workload and associated increase in headcount.

The Statement of financial position shows net assets of £1,183,000\*. The financial statements are prepared on a going-concern basis.

The following sections cover the work we did in 2018/19, including our work as the Pension Protection Fund Ombudsman. Please refer to the financial statements at the end of this report for further information about our finances.





**Pensions Ombudsman**  
**Pension Protection Fund Ombudsman**

# Performance report: Analysis



## Casework review – Pensions Ombudsman

In 2018/19, we were dealing with two distinct workstreams:

- **‘Early resolutions’** – a new workstream following the transfer of dispute resolution work to us from TPAS in March 2018. This in turn breaks down into two categories that we have called:
  - ‘Quick responses’ where a problem can be solved swiftly, with minimum intervention.
  - ‘Cases’ where some intervention is required including contact with all the parties to the complaint.
- **Investigations** – the majority of which are now settled by an informal Opinion rather than the more traditional process of an Ombudsman Determination.

Where relevant, we will show the numbers relating to each workstream separately.

### Our workload – enquiries

By ‘enquiries’ we mean requests for our help that we receive by telephone or in writing (by email or letter).

In May 2018 we created a new team to handle enquiries, our First Contact Team. The team adopted a new approach to enquiries and its aim, in every contact, is to:

- **Engage** – we build trust with the customer and ask direct questions to discover what the problem is. This ‘engagement’ sets the tone for the remainder of the customer’s journey through the complaint process and paves the way for what might happen next.
- **Educate** – we explain the options available to the customer including, but certainly not limited to, the service provided by us. If TPO might be able to help, we will explain what happens next and what steps need to be taken.
- **Resolve** – we will find a solution, where possible, through talking to the customer.

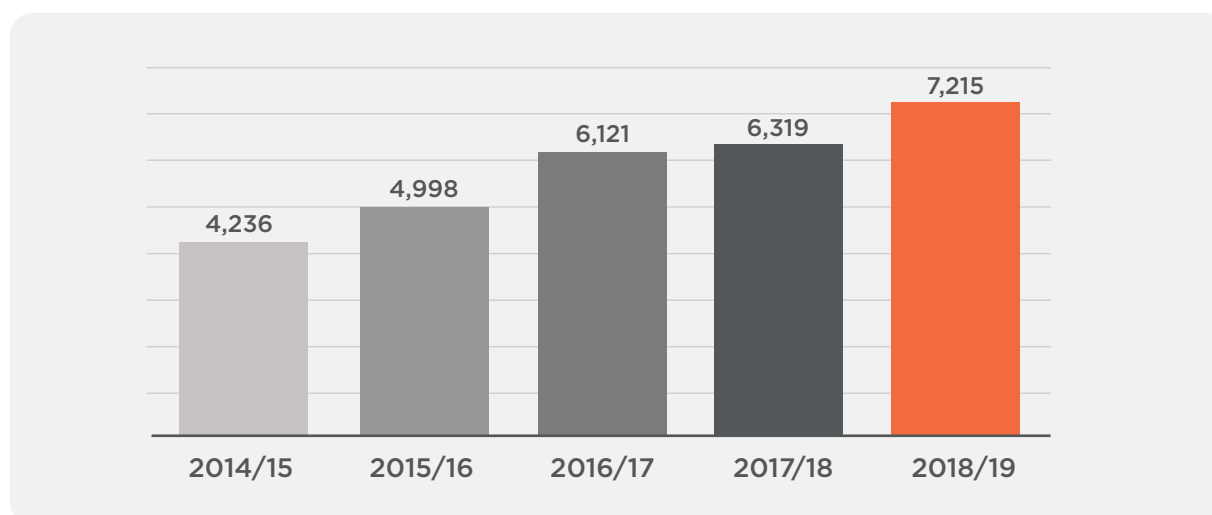
In 2018/19, we handled 8,205 telephone enquiries.





The chart below illustrates the position in relation to written enquiries.

### Written enquiries received and reopened – five years

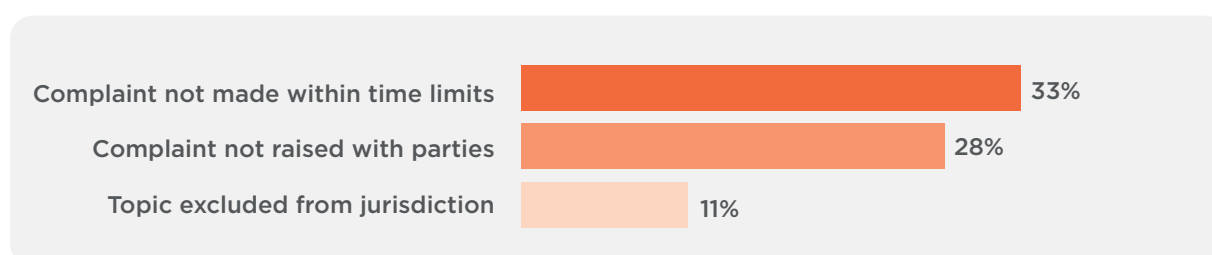


We received or reopened 7,215 written enquiries in 2018/19. We have included 1,456 early resolution quick responses in the figures for written enquiries. The work on quick responses was carried out within the Early Resolution Team.

We had a small number of enquiries in hand going into 2018/19. In total, we closed 6,906 written enquiries. A significant proportion of these were closed at a very early stage by, for example, being referred elsewhere or because they did not represent a complete application. A further 1,361 were closed as quick responses. The remainder went on for a jurisdiction decision as to whether they could be taken on for investigation.

We accepted 1,528 enquiries as complaints for investigation, not related to our early resolution work. Those not investigated were rejected for a number of reasons but the main one was not meeting our time limit requirements. The three main reasons for an enquiry not being taken on for investigation are illustrated below:

### Main reasons that enquiries did not become investigations



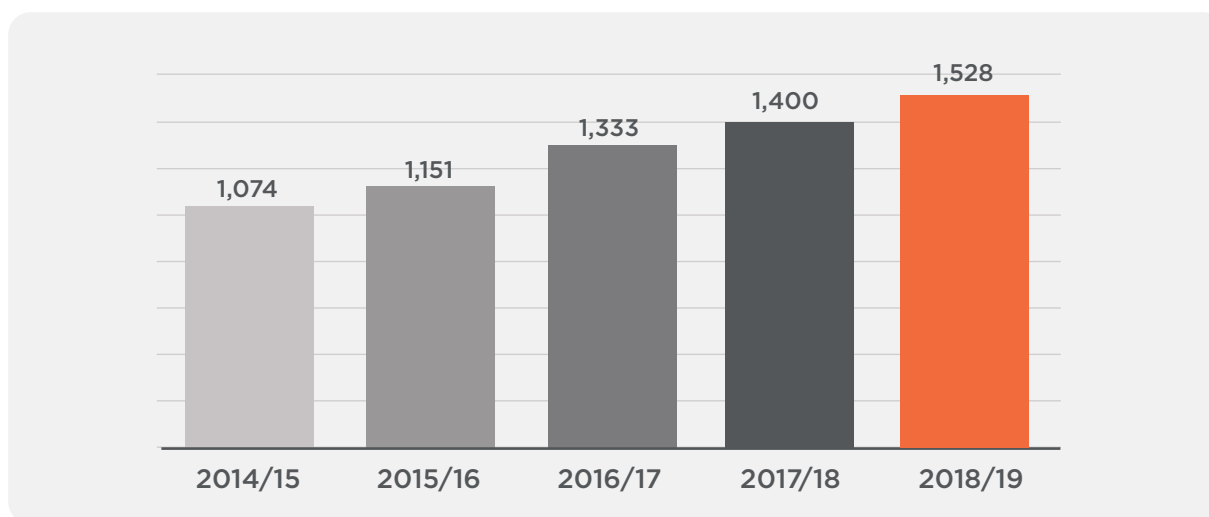
## Our workload – investigations

### New investigations

We accepted 1,528 complaints for investigation in the year (excluding early resolution work), a slight reduction when compared with 2017/18.

We frequently take on complaints that can be grouped together because their subject matter is similar or they are about the same pension scheme. Discounting these groups of complaints changes the position, in that the investigations taken on in 2018/19 represent a 5% increase from the previous year.

The trend is still upwards as the chart below illustrates:



### New early resolution cases

We took on 2,566 early resolution cases. This was around 50% more than anticipated. These cases are in addition to the 1,456 new quick responses which we have included in our enquiry numbers.

Our estimate for the year was based on the experience of the team whilst working in TPAS. The reason for the higher than expected demand is likely to be attributable to how customers are signposted to us.

## Completed investigations

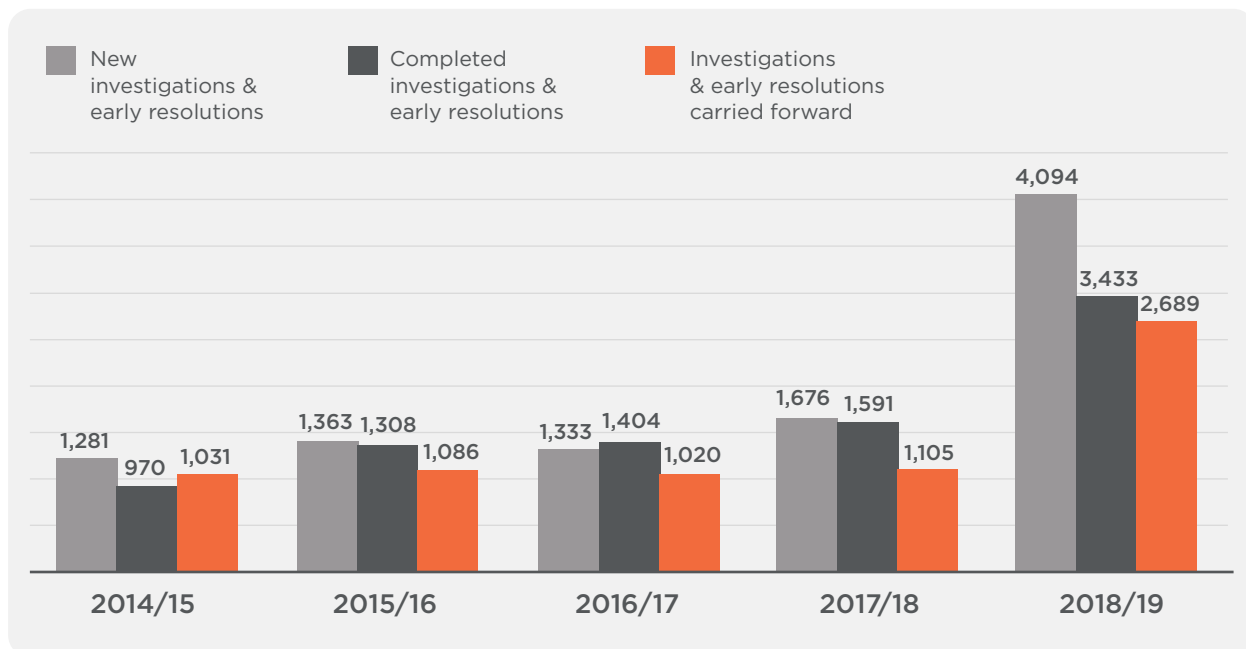
We completed 1,268 investigations, excluding early resolution cases. This was about 9% less than planned. There are a number of reasons why we were unable to reach our objective, examples are:

- **Resourcing.** At the beginning of 2018/19 we had resources to deal with the planned number of investigations. However, by the end of the year, our adjudicator numbers had dropped by 16%. We had a few leavers from this area and it has proved to be extremely difficult to replace this very specialist resource. Had we been able to replace all the leavers, we would have met our objective.
- **Change.** In 2018/19 we were working with changes introduced at the end of 2017/18. For example, a move to a new office, refresh of our Information Technology (IT) and telephony and assimilating TPAS' dispute resolution team into TPO. This meant time needed to be taken to familiarise all staff with new people, processes and systems which reduced the time available to focus on casework.

## Completed early resolution cases

We closed 2,165 early resolution cases; 99% of our target. These cases were handled by our Early Resolution Team and our team of around 240 volunteers.

## New, completed and carried forward investigations, including early resolution cases - five years



## Timescales for investigations

We measure time from the date on which we have enough information to make a jurisdiction decision. For 2018/19, we set ourselves an objective to complete new investigations within six months of that date, on average.

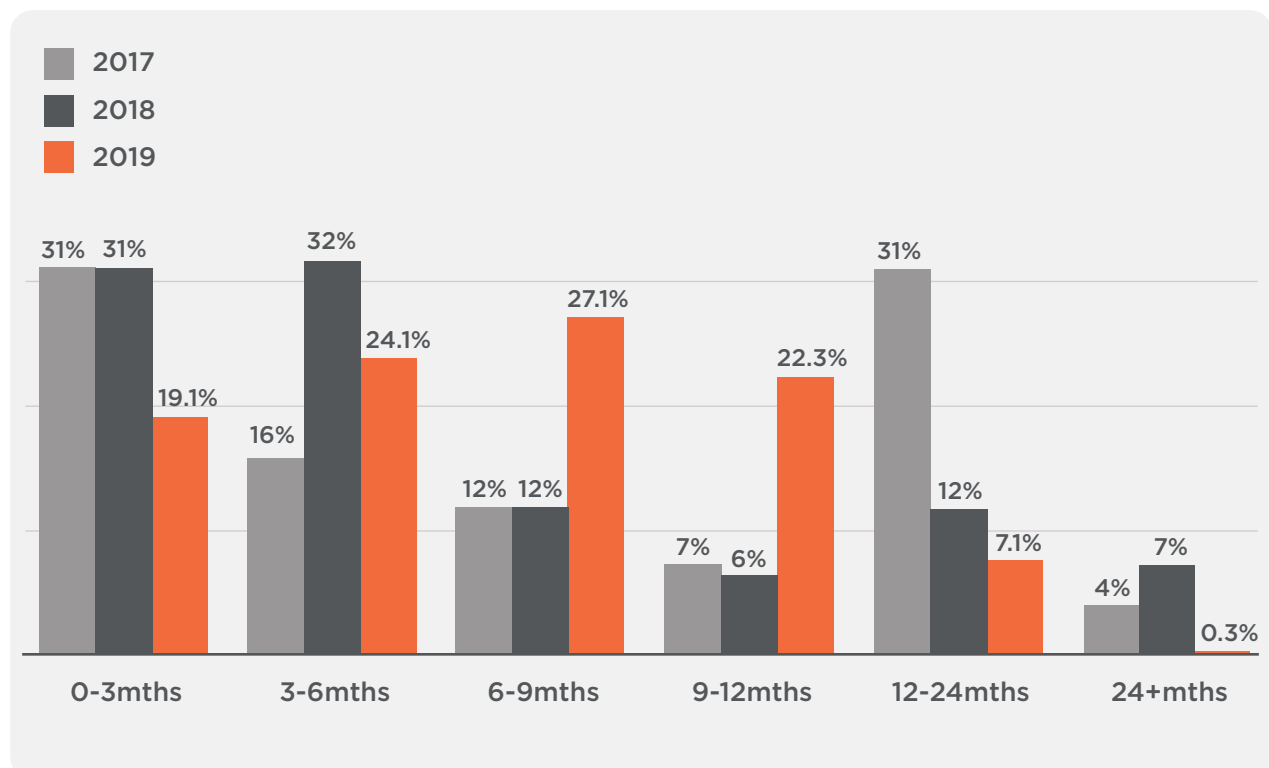
The average time for new investigations to be completed was 5.3 months.

We always have a number of investigations in hand that cannot be moved on for reasons outside of our control; for example, pending or ongoing court proceedings which could affect our investigation. But we have continued to focus on clearing older cases where we can and the results of this are illustrated in the chart below.

Cases aged 12 months or more now represent just over 7% of open investigations, excluding those related to early resolution. Three years ago, cases in this age bracket accounted for nearly 35% of our open workload.

We recognise that, in concentrating on older cases, others have aged more than we would like. There is an increase in the proportion of cases falling into the 6 to 12 month bracket. One of our commitments for the year to come is to concentrate on cases that are reaching, or likely to reach, 12 months.

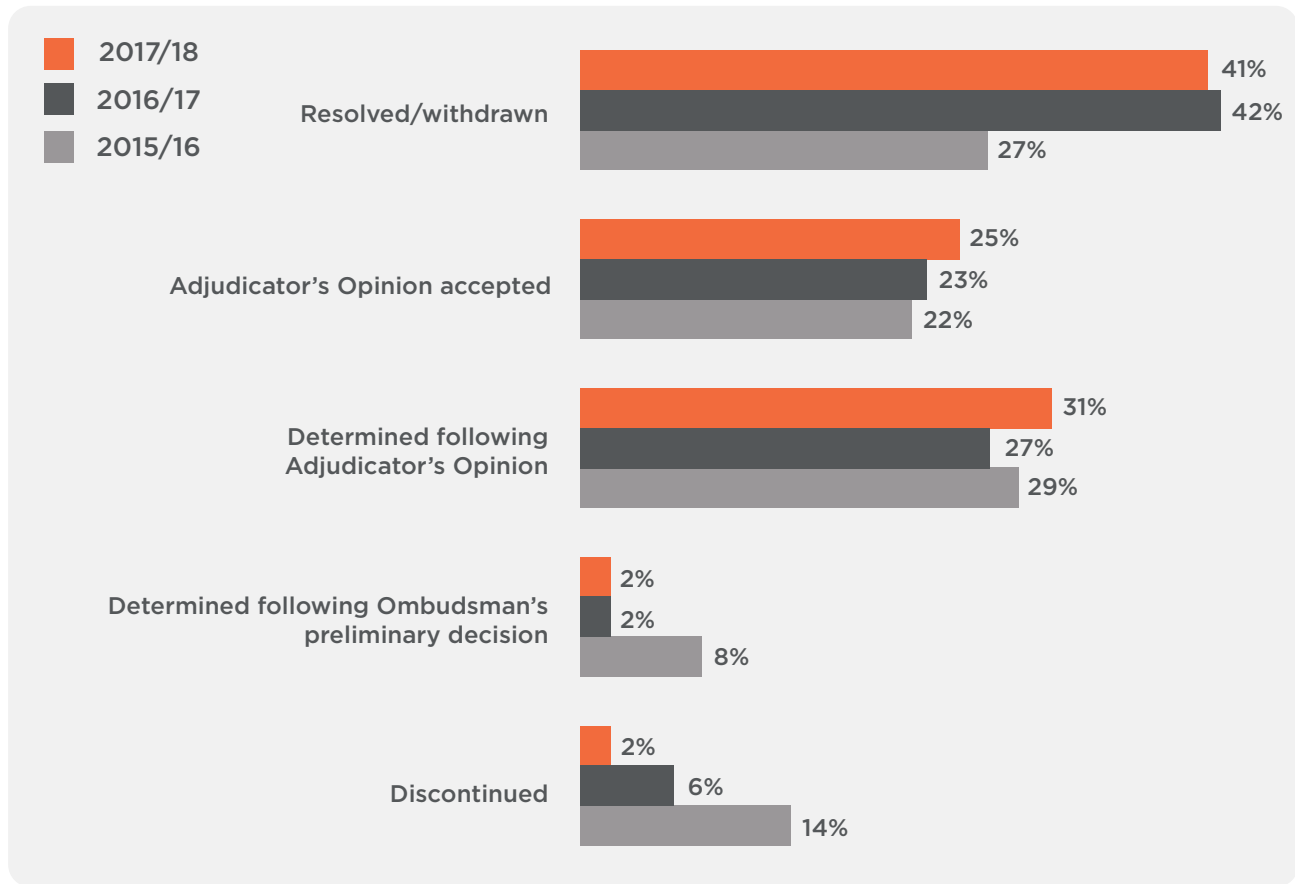
### Age profile of open investigations at business year end – three years



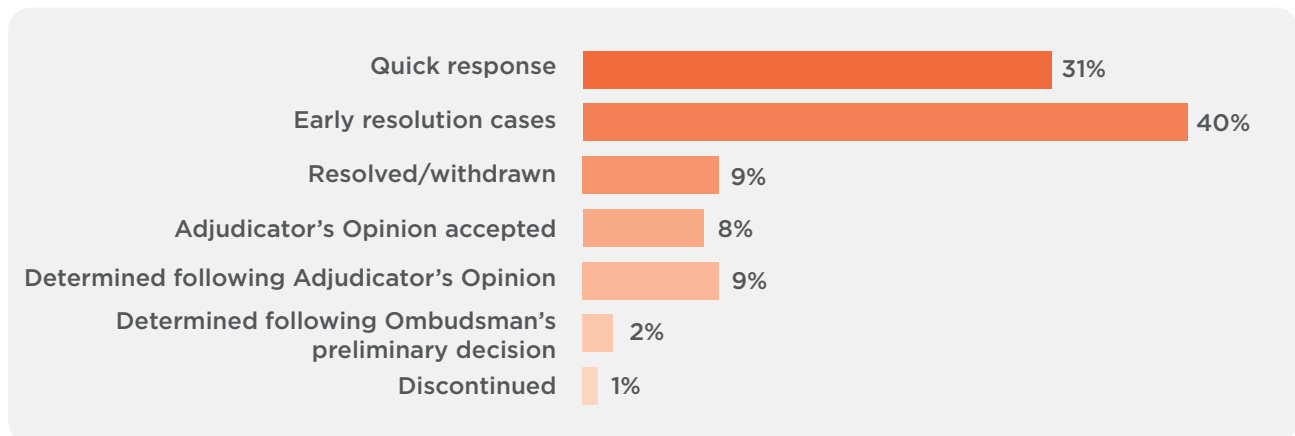
## Decision-making process

Our complaint-handling environment has changed significantly as a result of us taking on the early resolution work in the year. To illustrate this, the following charts show how complaints were concluded for the three years to the end of 2017/18 and for 2018/19.

### Decision process - three years



### Decision process - 2018/19



The chart above shows that around 80% of complaints were concluded by resolution. A further 8% were concluded without an Ombudsman's decision. So around 90% of all complaints (that is, quick responses, early resolution cases and other investigations) were concluded without an Ombudsman's intervention. This means that, for the vast majority of complaints, timescales and effort for the people involved in the complaint are kept to a minimum.

## Ways in which a complaint can be concluded

### Quick responses

We apply this approach to complaints that are clearly resolvable with the minimum of intervention and usually involves just ourselves and the person making the complaint.

### Early resolution cases

These are cases where the matter appears to be resolvable with a limited amount of intervention. It is usually necessary for us to liaise with the complainant and the party being complained about. We call these 'early resolution' cases because we aim to get involved as early as possible in the process to avoid parties having to go through further, lengthy processes.

### Resolved or withdrawn complaints

In these cases, which are not handled under our early resolution service, an Adjudicator will explain the position to the applicant, and possibly others involved in the complaint, with a view to resolving the matter informally.

### Adjudicator's Opinion accepted

In these cases, an Adjudicator will give everyone involved in the complaint their written view (or 'Opinion') of the outcome. Where investigations can be concluded by agreement; timescales and effort for the people involved in the complaint are kept to a minimum.

### Complaint is determined following Adjudicator's Opinion

This happens when some or all of the people involved in the complaint do not accept the Adjudicator's Opinion. The complaint is referred to an Ombudsman and if they agree with the Opinion, a final Determination is issued.



### Complaint is determined following an Ombudsman's preliminary decision

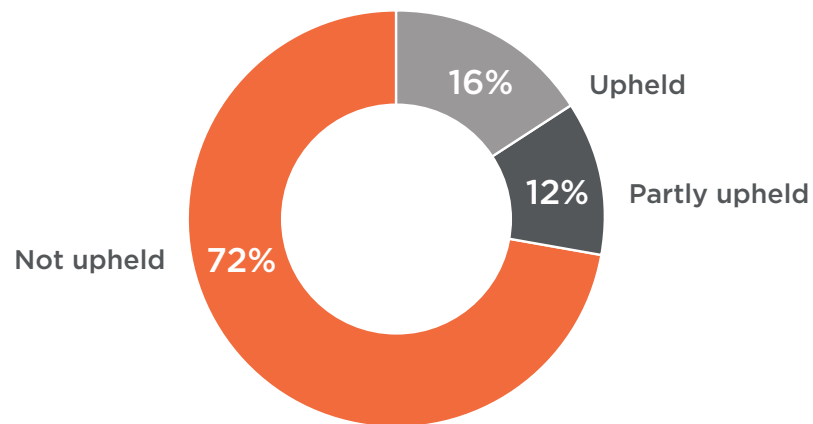
In some cases, an Ombudsman might issue a preliminary decision and then go on to make a final Determination, for example, where the complaint is highly complex with many issues to be addressed.

### Complaint is discontinued

In these cases, an Ombudsman decides that the investigation should not continue. Usually, the number of complaints that are discontinued is low.

### Outcome of complaints determined by an Ombudsman

Only complaints determined by an Ombudsman can be said to have been upheld or not. This is the position for 2018/19 and it is very similar to previous years.

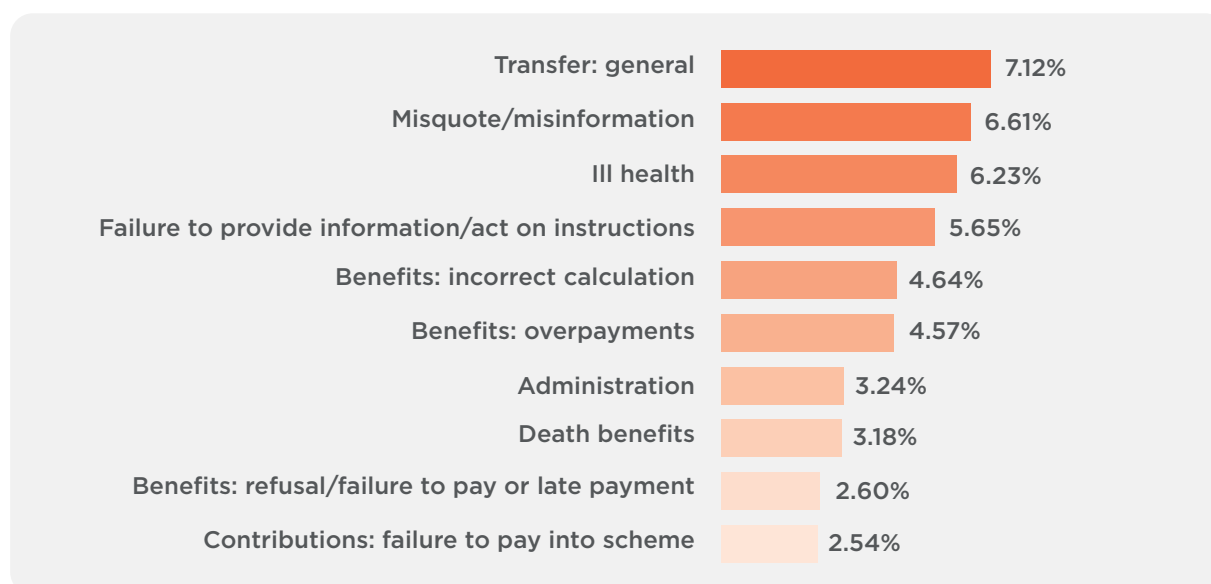




## What complaints were about

### New investigations

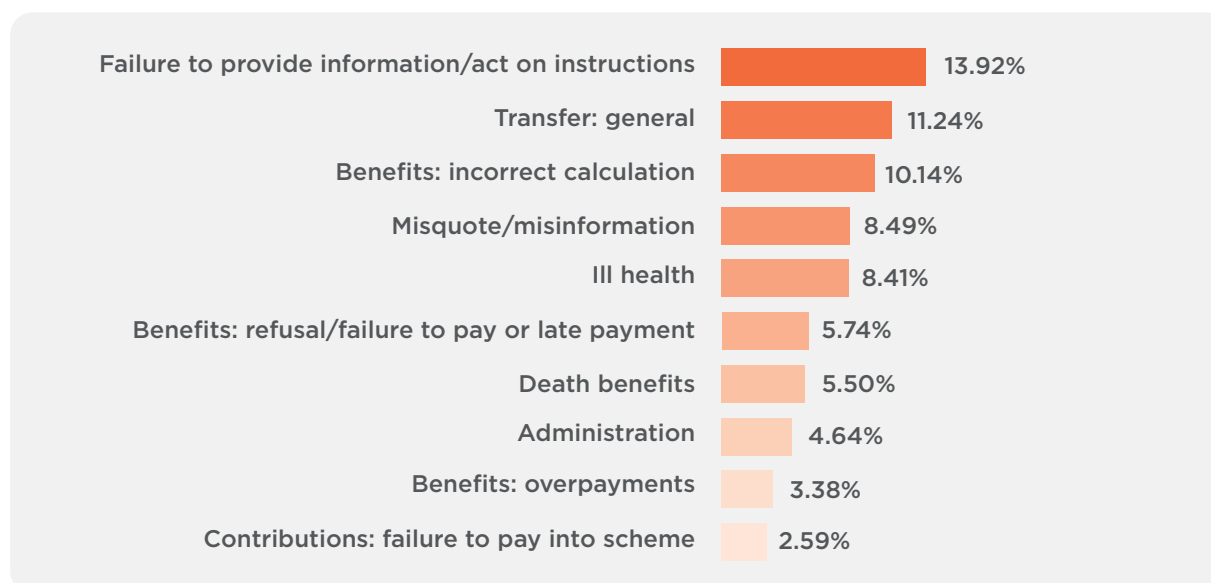
#### Subject matter of new investigations (top 10)



The subject matter of new investigations was broadly similar to previous years.

### Closed investigations

#### Subject matter of closed investigations (top 10)



The subject matter of closed investigations was broadly similar to previous years.





## Some summaries of completed investigations

### Failure to provide information

Ms R is a member of a small self-administered pension scheme (the **SSAS**) with a trustee company (the **Trustee**) acting as a professional trustee. In December 2014, Ms R transferred the benefits she had in a previous employer's pension scheme to the SSAS. Ms R took a tax-free cash sum from the transfer amount and invested the remainder in Bitcoins through the Bitcoin Store.

In March 2015, Ms R received a letter from the Trustee and an invoice to show that 113 Bitcoins were to be purchased for a payment of £18,924.11. The invoice said that payment was to be made to Bitcoin Store Inc at Capital Bank in New York.

The Bitcoin Store was part of Bitcoin Store Inc and is the subject of a Securities and Exchange Commission (SEC) and FBI investigation in the USA. The SEC has stated that although Bitcoin Store investors were given material that claimed it was easy to use and a secure way of holding and trading Bitcoins, the Bitcoin Store never had any operations.

Ms R says that the Trustee had failed to confirm the purchase of the Bitcoins or provide any information on the status of her pension since July 2015. Ms R found it difficult to contact the Trustee and it also took some time for us to elicit a response from the Trustee as it was dissolved by compulsory strike off in December 2015.

A response was finally received from a former director of the Trustee (**Mr W**), who said that the investment in the Bitcoin Store had not been approved by the scheme's financial adviser, as it was not acceptable under HM Revenue & Custom's rules and was not approved by the SSAS.

One of our adjudicators was of the opinion that Mr W's failure to confirm the purchase of the Bitcoins both to Ms R and to us amounted to maladministration. In addition, Mr W's failure to answer Ms R's questions regarding the status of her pension since July 2015, and to inform her that the Trustee was winding up, were further acts of maladministration. As these acts had occurred before the Trustee was dissolved the Adjudicator considered that the Trustee's dissolution did not absolve the Trustee of liability.

The Ombudsman agreed with the Adjudicator. He also said that because the Trustee had been dissolved, any directions he made against it could not have effect unless and until action was taken to restore it. For that reason, to enable Ms R to take such action should she wish to do so, the Ombudsman directed that Mr W should provide Ms R with proof of the investment in the Bitcoin Store or confirm the location and value of Ms R's original investment and should also pay Ms R £3,000 in recognition of the exceptional distress and inconvenience she had suffered.

## Refusal to transfer

Mr N has a self-invested personal pension (SIPP) with Zurich which is administered by Curtis Banks (**Zurich/CB**). In late January 2017, Mr N asked Zurich/CB to transfer the SIPP fund to the RCJ Management Ltd Pension Scheme (the **RCJ Scheme**), a small self-administered pension scheme (SSAS). Zurich/CB said that, because the receiving scheme was a SSAS, it carried out additional due diligence checks including: seeking confirmation of the current registration status of the RCJ Scheme from HM Revenue & Customs (HMRC); and requesting additional information from the trustee of the RCJ Scheme.

In March 2017 Zurich/CB told Mr N that it would not be progressing the transfer to the RCJ Scheme because HMRC had been unable to confirm the registration status of the RCJ Scheme. Further, it had identified 16 areas of concern, including:

- The principal employer of the RCJ Scheme had 58 current directors, in varying occupations and locations.
- The principal employer had no website or listing on directories.
- Mr N was unable to provide payslips or an employment contract to confirm his relationship with the principal employer.
- The Trust Deed and Rules for the RCJ Scheme had been put in place after RCJ Limited was dissolved.
- The scheme administrator had not responded to a request for supporting information to enable Zurich/CB to undertake further due diligence.
- There were negative forum comments on Money Saving Expert.
- The RCJ Scheme had links with the Incartus Scheme - which failed its due diligence and had independent trustees appointed by TPR.
- Mr N was aggressively chasing the transfer.

Our Adjudicator was of the opinion that, in view of Zurich/CB's concerns, it was reasonable for Zurich/CB to decline the transfer. This meant it would not be possible to uphold any claim for compensation in respect of a perceived investment loss or an award for distress and inconvenience.

Mr N did not accept the Adjudicator's Opinion. He said that he had a statutory legal right to transfer his pension.

The Ombudsman found that Mr N had acquired a right to take a cash equivalent transfer value in accordance with Chapter IV of Part 4ZA of the Pension Schemes Act 1993.

The Ombudsman explored the provisions of the Pension Schemes Act 1993 (the **Act**) as they relate to this matter. The right under section 94 of the Act is a right to take a cash equivalent transfer in accordance with the requirements of Chapter IV of Part 4ZA, which includes section 95 of the Act. Section 95 of the

Act sets out how a member is entitled to take his cash equivalent transfer. In Mr N's case, the relevant provision is section 95(3)(a)(ii): acquiring transfer credits allowed under the rules of an occupational pension scheme which satisfies prescribed requirements. Regulation 2(1)(A) of the Personal Pension Schemes (Transfer Values) Regulations 1987 (the **Regulations**) provides that those prescribed requirements include the requirement that the receiving scheme (if not a qualifying overseas pension scheme or a retirement annuity contract) is registered with HMRC.

The Ombudsman concluded that there is no abstract right for a member to take a cash equivalent transfer under section 94 of the Act, as it is subject to section 95 of the Act. Accordingly, Zurich/CB was entitled to treat the RCJ Scheme, which could not establish its registered status, as having failed to comply with the prescribed requirements of section 95 of the Act, namely regulation 2(1)(a) of the Regulations.

It followed that, as the RCJ Scheme could not establish its registered status, Mr N had no statutory right to a cash equivalent transfer to the RCJ Scheme and Zurich/CB was justified in refusing his request. The Ombudsman said the decision in *Hamar v Pensions Ombudsman* [1996] PLR 1 supported his view.

## Death benefits 1

Mrs S' husband, Sgt S, was a member of the Armed Forces Pension Scheme 2005. In 2013, before being deployed to Iraq, Sgt S was advised to complete a death benefit lump sum nomination form. At the time Sgt S completed the form, he was single and he listed his friend as the sole beneficiary.

In April 2015, Sgt S was automatically transferred to the Armed Forces Pension Scheme 2015 (the **Scheme**). Sgt S married Mrs S in August 2016 and in October 2016, he updated his details, naming his wife as the beneficiary of his will. Later that month Sgt S died in a road traffic accident.

Veterans UK told Mrs S that although she was Sgt S' widow and he had made her the beneficiary of his will; he had not updated his death benefit nomination form since 2013 and that nomination remained valid. Therefore, Veterans UK could not pay the death benefit lump sum to anyone other than the nominee on the form.

Mrs S was unhappy with this decision.

One of our adjudicators said that there was no maladministration by Veterans UK who are bound by the Regulations of the Scheme. Regulations 78 and 84 of the Armed Forces Pension Regulations 2014 make it clear that the death benefits need to be paid to the person nominated on the form; and payment may be paid to a spouse only if no one else is nominated. The Adjudicator did not consider that the Regulations allowed the scheme manager to use its discretion to overlook the nomination form and pay the death benefits to an alternative individual.

The Adjudicator acknowledged that Sgt S had updated his will making Mrs S his sole beneficiary. However, that alone was not sufficient to make the nomination form invalid. Regulation 84 of the 2014 Regulations, provides details of when a nomination is invalidated and an updated will was not one of the reasons.

Mrs S did not accept the Adjudicator's Opinion. She said that the failure to update the nomination form resulted from system failures and from Sgt S' actions. Mrs S asserted that Veterans UK owed a duty to Sgt S to inform him of the importance of updating the nomination form. Therefore, Veterans UK should have used its discretion and disregarded the nomination form.

The Ombudsman sympathised with Mrs S' situation but found that the Regulations did not allow Veterans UK to disregard a valid nomination form, despite the unfortunate circumstances of this case. The Ombudsman acknowledged that Veterans UK had a duty to look after its members and their dependants. However, he considered that Veterans UK fulfilled that duty by offering its members a pension and the opportunity to leave a death benefit to their chosen beneficiary.

## Death benefits 2

Mr R was a deferred member of the Simons Group Pension Scheme (the **Scheme**).

Mr R had received a diagnosis of terminal cancer and had contacted the Scheme administrators in 2016 to discuss his options. The Scheme administrators wrote to Mr R in April 2016 setting out two options for a tax-free lump sum and annual pension, including details of the widow's pension that would have been payable under each option. It also explained that if Mr R's life expectancy was less than 12 months, he could be paid his full benefits as a tax-free lump sum.

After Mr R's death, the new Scheme administrators wrote to his widow Mrs R, with details of her widow's pension. This was considerably less than the amounts quoted in April 2016 and did not include a tax-free lump sum. Mrs R queried this and was informed that the amounts quoted in the April 2016 letter related to benefits that would have been payable had Mr R brought his pension into payment before he died.

Mrs R complained, that the Scheme's trustees (the **Trustees**) had failed to provide adequate information to Mr R during his terminal illness. In particular that benefits payable to his estate (and to her as the widow) would be significantly lower if not taken during Mr R's lifetime.

The Ombudsman upheld the complaint against the Trustees. He found that the Trustees had not taken account of the information Mr R had provided about his illness. The Trustees failed to follow up on the letter sent to Mr R in April 2016, and did not take adequate measures to ensure Mr R understood the significance of the benefit options outlined in the letter, namely that, any benefits payable after Mr R's death would be less than those quoted before his death.

The Ombudsman concluded that it was more likely than not that had Mr R been properly informed he, or someone acting on his behalf, would have taken further action, to ensure that his estate and Mrs R received the benefits set out in the letter from the Scheme administrators.

The Ombudsman therefore directed the Trustees to pay Mr R's estate the benefits that Mr R would have received if he had applied for the higher of the options set out in the letter of April 2016 (including any interest for late payment). The Trustees were also directed to pay Mrs R £500 to recognise the significant distress and inconvenience that she had suffered.

### Recoupment of overpayment

Dr E was transferred, under the Transfer of Undertakings (Protection of Employment) Regulations 2006, into the QinetiQ Pension Scheme (the **Scheme**) in July 2001. His former pension arrangement was contracted out of the then State Earnings Related Pension Scheme (**SERPS**). As a consequence of being contracted out of SERPS, the Scheme was required to provide Dr E with a pension that was broadly equivalent to the SERPS pension being given up. That equivalent amount is known as the Guaranteed Minimum Pension (**GMP**).

Dr E was entitled to periodic increases of any part of his pension in payment under the Scheme which related to: GMPs accrued between 6 April 1988 and 5 April 1997 (inclusive); or pension in excess of the GMP. Dr E was not entitled to increases in respect of any GMP accrued before 6 April 1988. Under statute, GMPs only become payable on reaching State Pension Age.

Dr E retired at age 60 in 2004, before reaching State Pension Age, so he received increases in respect of all of his pension payable at that time as all of it was in excess of any GMP.

Dr E reached his State Pension Age in 2009. Normally at this stage, his pension would have been split into a GMP tranche and a tranche relating to his pension in excess of the GMP, to ensure that the GMP and excess pension elements increased at their respective rates. However, due to an administrative error in 2004, the new administrators were not informed that Dr E's GMP had become payable, so Dr E's whole pension continued to increase. This led to an overpayment of £2,664 between July 2009 and September 2016.

Dr E complained to the Scheme. The trustee partially upheld the complaint. It offered Dr E £250 in recognition of his distress and inconvenience and suggested a payment plan, to recoup the overpayment from his pension at a rate of £37 per month.

Amongst his arguments against the recovery, Dr E said that a time limit should apply which would prevent the trustee from recovering the overpayment. In other words, that a limitation defence, as provided for under Section 5 of the

Limitation Act 1980 (the **Act**) should apply, so the trustee could only recover overpayments made within (broadly) the previous six years. He was of the opinion that the BIC judgment<sup>1</sup>, under which the judge had found that section 5 of the Act did not apply where overpayments were recovered by recoupment, should not apply, as his case should be considered against the interpretation of the law at the time he made the complaint, which was before the BIC judgment.

The Ombudsman did not uphold the complaint. He did not agree with Dr E's change of position defence as it was likely that Dr E would have made the same decision if he had known the correct position. Furthermore, the BIC judgment did not amend the Act; instead it provided clarification as to the interpretation and application of the existing legislation. He also commented in detail as to comments made by the judge, in the BIC judgment, on the Pensions Ombudsman's position as a 'competent court' for determining disputes concerning attempts to recoup overpayments. These details can be found in full in our fact sheet – 'Recoupment in overpayment cases: the Pensions Ombudsman is a 'competent court''.<sup>2</sup>

### Ill health early retirement

Mr H complained that South Tyneside Council (the **Council**) incorrectly awarded him Tier 2 ill health early retirement (**IHER**) benefits. He said he was entitled to (more generous) Tier 1 IHER benefits.

Mr H applied for IHER in September 2016. On assessment, the independent registered medical practitioner recommended that he be reassessed in three years. Mr H's employer terminated his employment and granted him Tier 3 IHER benefits.

Mr H challenged the decision and, on reconsideration, the Council awarded Tier 2 IHER benefits. The Council found that it was more likely than not that Mr H would be able to undertake gainful employment before he reached his normal retirement age and therefore Tier 2 benefits were appropriate. It did not find that the Tier 1 criteria had been met, as the barriers that Mr H claimed prevented him from returning to work were not health related but related instead to his role as carer for his son.

Following this, Mr H argued that the Council had failed to take account of the Equality Act 2010 (the **Act**) and that the 'gainful employment' criterion should be disregarded because it contravenes the Act. He also argued that the Council had failed to take account of his responsibilities as a carer, other legislation and court cases. Although he agreed that in future he might be fit enough to return to work, he could not commit to that while he remained

<sup>1</sup> Burgess & Ors v BIC UK Limited [2018] EWHC 785 (Ch)

<sup>2</sup> <https://www.pensions-ombudsman.org.uk/wp-content/uploads/Recoupment-in-Overpayment-case-.pdf>

responsible for caring for his son. He said that taking his role as a carer away would be discriminatory to his son and may also be discriminating against him as his carer.

The Deputy Pensions Ombudsman did not uphold the complaint. She clarified that the courts have not ruled that either: regulation 35 (relating to Tier 1 IHER); or the gainful employment criterion contravenes or is incompatible with the Act and it was not within her power to make such a ruling, or to change the relevant regulations.

However, she considered in detail Mr H's claim of indirect discrimination via his association with his disabled son under the Act and the relevant case law. She found that there was nothing within UK law that provided Mr H with a legal right to protection and that she had no powers to change the law. Therefore, on the basis of the law relevant at the time, she could not find that the Council had interpreted or applied the gainful employment criterion in a manner that contravened the Act.

She also considered in detail whether Mr H might have had a viable claim for reasonable adjustment of the gainful employment criterion. As part of this, she considered relevant case law and found that he would not have had a successful claim. She concluded that there is no legal obligation on the Council to make reasonable adjustments to accommodate Mr H's carer responsibilities and therefore there was no maladministration on the Council's part.

Overall, the Deputy Pensions Ombudsman agreed that the Council had given full and proper consideration of Mr H's medical condition and his caring responsibilities before concluding that Tier 2 was appropriate.

## Pension Liberation

Mr N complained that the Northumbria Police Authority (the **Authority**) had transferred his pension fund from the Police Pension Scheme (the **Scheme**) to a new pension scheme without having conducted adequate checks in relation to the receiving scheme and had failed to provide him with a sufficient warning, as required by TPR, against transferring. Mr N was concerned that his entire pension fund may have been lost or misappropriated.

Mr N wanted to access his pension before the Scheme's normal retirement age and therefore he sought advice on the possibility of transferring to a pension provider which would let him access his pension at age 55. In August 2013, he obtained advice, via an unregulated introducer, from a firm of financial advisers. He subsequently transferred £112,077.66 in August 2014 to the London Quantum Retirement Benefit Scheme (**London Quantum**), which appeared to be a defined contribution occupational pension scheme.

The sponsoring company is now in liquidation and TPR appointed an independent trustee (the **Trustee**) in June 2015. The Trustee indicated that actions taken by the former trustee may have been in breach of trust, and members of London Quantum may have suffered a loss as a result.

In 2016, Mr N complained to us about the Authority. The Ombudsman decided to hold an oral hearing to assist him in determining whether Mr N would have transferred anyway, regardless of any further intervention by the Authority, or the provision of TPR's action pack.

The Ombudsman noted that Mr N's transfer request had been received by the Authority nine months after TPR's pension liberation fraud guidance of February 2013 had been issued; and his transfer was completed in August 2014. He referred to a number of previous Ombudsman Determinations, in which it had been stated that February 2013 had marked a point of considerable change in the level of due diligence expected of trustees, managers and administrators when considering transfer requests. He commented that the overriding consideration for a scheme trustee or administrator must be to evaluate the transfer application carefully in order to comply with a valid statutory transfer right and to withhold legitimately an invalid transfer application. He concluded that the type of analysis contained in those previous Ombudsman Determinations and expected by TPR, and subsequently seen in practice in the industry, had not been present in the Authority's actions in Mr N's case.

The Authority sought to rely on the statutory discharge of the Pension Schemes Act 1993 on the basis that they had done everything that was needed to carry out the transfer. However, the Ombudsman disagreed and found that the Authority had failed to undertake an appropriate review of the transfer application, taking into account the law and regulatory guidance and had not carried out reasonable checks of the receiving scheme. The Ombudsman was also satisfied that, on the balance of probabilities, had the Authority acted more diligently, Mr N would not have proceeded with the transfer and suffered the subsequent loss.

The Ombudsman upheld Mr N's complaint and directed the Authority to reinstate Mr N's accrued benefits in the Scheme; or if that was no longer possible, provide equivalent benefits, adjusting for any revaluation since the transfer. The Ombudsman also directed that the Authority would be entitled to recover from Mr N any amount of his pension fund that the Trustee was able to retrieve from London Quantum. The Authority was also directed to pay Mr N £1,000.

### Trustees personally liable

Mr L was a member of the Henry Davison Limited Pension Scheme (the **Scheme**), an occupational defined contribution pension scheme. Mr L and 13 additional applicants (the **Additional Applicants**) made complaints to us that the trustees of the Scheme (the **Trustees**) had: mismanaged the Scheme's



funds; issued fabricated benefit statements; and caused funds transferred into the Scheme to be lost.

Mr L and most of the Additional Applicants had joined the Scheme so that they could invest, via the Scheme, in a new financial product that had been marketed online. They had been introduced to one of the Trustees, Mr Davison, by an acquaintance of Mr Davison's. It later transpired that the investment was fraudulent. Having managed to retrieve some of the funds from that investment, the Trustees gave the members the option of enabling Tivan Fiducaria S.A. (**Tivan**), with whom the Trustees had entered into an asset management agreement (the **AMA**), to trade their money, under the Trustees' direction.

Information in relation to Tivan and the AMA, issued by the Trustees to Scheme members, promoted high level returns on investments and did not mention any fees, charges or commission payable to Tivan or to the two prime brokers who held the Scheme accounts, subject to Tivan's discretionary management under powers of attorney granted to Tivan by the Trustees. The Trustees placed a net total of £1,328,963 of Scheme funds with Tivan during 2012.

Members became suspicious when the Trustees stopped issuing them with statements of account. It transpired that the value of the funds invested with Tivan had been reduced to £106,000. Most of that loss was attributable to charges, prime broker fees and commission paid to Tivan, which subsequently went into liquidation.

Our investigation included an oral hearing, as it seemed that the Trustees might be held personally liable for their shortcomings. Mr Davison, Mr L and three of the Additional Applicants attended the oral hearing. It was revealed that the extent of the Trustees' due diligence in relation to the AMA, Tivan and the prime brokers had fallen far short of the standards required under trust law. For example: the Trustees had taken no independent advice in relation to entering into the AMA; the AMA's terms were surprisingly onerous from the Trustees' point of view; and the clause of the AMA which concerned fees and commission placed no limit on the amount that could be charged.

Further breaches of trust on the Trustees' part that were revealed by our investigations included: nearly £800,000 of Scheme funds having been invested in loans which had defaulted; entering into an investment, without having taken independent advice, in shares in a company owned by Mr Davison (which had since been dissolved) via a 'special purpose vehicle'; issuing statements of account, showing investment growth, to members without verifying the figures contained in those statements; and an unmanaged conflict of interest that had resulted in the Trustees having paid more than £100,000 of Scheme assets to a consultancy firm owned by Mr Davison.

In his Determination, the Ombudsman found the Trustees to be personally liable for the loss incurred by members and the Scheme as a consequence of the Trustees' various breaches of trust. The Ombudsman also found that the

Trustees' actions amounted to maladministration and directed the Trustees to pay £5,000 to each of Mr L and the Additional Applicants in respect of the exceptional level of distress and inconvenience suffered by each of them over a prolonged period of time.

## Some summaries of completed early resolution cases

### Ill health

Miss M contacted us after being refused ill health retirement. Miss M suffered from mental and physical ill health. She was confused by the ill health retirement process under her pension scheme (the **Scheme**) and did not fully understand the Scheme administrator's correspondence.

After discussing the problem with one of our advisers, Miss M and her General Practitioner provided focused evidence relevant to the Scheme's ill health retirement criteria. This was then put forward as part of Miss M's appeal. After consideration, the Scheme confirmed that Miss M met the eligibility conditions.

The Scheme also acknowledged that its earlier handling of Miss M's application had been unnecessarily protracted and that this had added to Miss M's distress. The Scheme agreed it would be appropriate to offer Miss M £500 in acknowledgement of this. Miss M accepted its offer.

Miss M had further questions about how her retirement benefits had been calculated, which our adviser was able to explain.

Miss M commented "I'm so relieved to have this confirmation after such a long period of delays, unanswered questions and continual anxiety. Please know your guidance has made so much difference. Words don't adequately convey my sincere appreciation."

### Overpayment

Mr F sought help after being told by his pension scheme (the **Scheme**) that he was not entitled to the pension that he had been paid since 2006. Mr F had, in fact, transferred his entitlement away from the Scheme 12 years earlier. Mr F did not dispute that he had transferred out of the Scheme, but he believed that the pension paid to him was in respect of his second period of service, having re-joined the employer a year after leaving.

The overpayment was the result of an error which meant that Mr F's earlier service had not been correctly marked to show that he had transferred. Mr F had been overpaid approximately £138,000.

Our Adviser explained to Mr F that, legally, the Scheme was entitled to seek recovery of the overpayment. However, our Adviser considered that there might have been grounds to suggest that, by virtue of the Limitation Act 1980, monies paid more than six years beforehand might not be recoverable. Our Adviser also explained to Mr F that, if he were to challenge the recovery of the overpayment, he would need to persuade the Scheme on balance that: it had been reasonable for him to consider that the monies he had received were correct; and, as a result, he had relied on the overpayments to make expenditure that he would not otherwise have made.

Mr F explained why he had believed the figures quoted to him in 2006 were correct and how he had then used the monies to make expenditure and live a lifestyle that he had thought he could afford. Our Adviser relayed this to the Scheme's trustees for them to consider.

After reviewing Mr F's explanation and circumstances, the trustees decided not to seek repayment.

### Early retirement

In the lead up to his retirement Mr M obtained several different benefit illustrations from his pension scheme (the **Scheme**). Unfortunately, he misinterpreted them and did not realise that because of contracting-out requirements, by electing to draw his pension benefits at 64 he would lose his option to take the tax-free lump sum on retirement. This became apparent to Mr M when he reached 65. At that point his pension was increased to match his guaranteed minimum pension, but the lump sum option that he had been expecting was not available.

We told Mr M that in our view the Scheme's illustrations were factually correct. We therefore did not think he could successfully argue he had been misled or contend that he should be allowed to retrospectively change his options. However, we were curious as to whether the Scheme's approach complied with the requirement that the actuarial value of early retirement benefits should be equal to the value of the normal retirement benefits given up.<sup>3</sup>

After considering this point carefully, the trustees of the Scheme instructed their administrators to recalculate Mr M's benefits to check whether they complied with legislation. This check identified that Mr M's pension should be uprated by 39%.

Mr M confirmed that he was happy with the proposal and agreed that his complaint was resolved.

<sup>3</sup> The Occupational Pension Schemes (Preservation of Benefits) Regulations 1991 (SI 1991/167)

## Transfer delay

Mrs F was unhappy about delays that she experienced when investigating transferring benefits from her pension scheme (the **Scheme**). Her advisers had requested a cash equivalent transfer value (the **CETV**) illustration and additional information about the Scheme. The information was needed to enable them to determine if it was in Mrs F's interest to transfer. While the bulk of the information was provided in good time, the remainder was not provided until three days before the expiry of the guarantee period for the CETV illustration.

Mrs F decided to transfer. However, due to the delay in the provision of requested information the CETV needed to be recalculated and she was charged a fee for that. On recalculation, the CETV was reduced. Mrs F proceeded with the transfer and estimated her loss to be around £87,000, resulting from a combination of the reduced CETV and the reduced units secured on transfer.

The Scheme trustees (the **Trustees**) contended that they had met the disclosure requirements and pointed out that Mrs F had proceeded with the transfer knowing that the CETV had reduced.

Our Adviser responded that compliance with the disclosure requirements did not necessarily mean that maladministration had not occurred. These disclosure requirements concern the minimum amount of information that needs to be provided and the maximum time within which it must be provided. While Mrs F had subsequently elected to transfer, that did not mean she had absolved the Scheme of any responsibility to make good the financial loss she had suffered because of the delay.

Having considered the points made by our Adviser, the Trustees now accepted information should have been provided sooner. They offered to pay £10,000 to Mrs F. This was unacceptable to Mrs F, so our Adviser provided guidance on how she could appeal, using IDRPs.

An appeal was submitted to the Trustees. After some discussion on when the transfer could have likely been completed, had there been no delay, the Trustees agreed to offer Mrs F £60,000 in settlement of her claim which Mrs F accepted.



## Casework review – Pension Protection Fund Ombudsman

This part of our report describes the small part of our work concerning the Pension Protection Fund (PPF) Ombudsman’s jurisdiction. Financial information is in note 2 of the accounts on page 96.

### PPF maladministration

We can investigate and determine complaints of maladministration on the part of the PPF.

### PPF reviewable matters

We can review decisions made by the Board of the PPF, but only after they have been reviewed by the Board of the PPF and then considered by its Reconsideration Committee.

### Financial Assistance Scheme appeals

We have jurisdiction to determine appeals against decisions made by the PPF, as scheme manager of the Financial Assistance Scheme (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.

### The year’s cases

2018/19 was similar to the previous year in terms of the number of new matters referred to us. Of the closed matters, five were investigated and the remainder fell away at an earlier stage.

	In hand at 01/04/18	New/ reopened matters	Closed/ Completed	In hand at 31/03/19
PPF maladministration	2	4	3	3
PPF reviewable matter	2	3	4	1
FAS appeal	3	6	4	5
<b>Total</b>	<b>7</b>	<b>13</b>	<b>11</b>	<b>9</b>



## Summary of a completed case

Mr N had appealed the decision of the Board of the PPF to reduce his FAS benefits going forward. He also believed that some elements of his pension benefits were omitted from the FAS calculations and as a result, his asset share was affected.

We did not uphold his appeal as we found that his FAS benefits had been correctly calculated in accordance with the FAS Regulations (the **Regulations**). We also explained that only the defined benefit element of Mr N's pension was transferred to the FAS. Therefore, the FAS would not have included any additional voluntary contribution or money purchase benefits when it calculated his asset share.

In his submissions, Mr N had raised a number of issues that the Ombudsman could not consider. This is because the PPF Ombudsman is an appeals body and as such he can only consider if the individual's FAS benefits were calculated in accordance with the Regulations. He could not consider any complaints of maladministration against the FAS.

## Complaints about our service

All complaints about our service are answered by our Casework Director or Deputy Casework Director. This enables immediate insight at the highest levels of the organisation into things that might be going wrong, and put them right.

We use our service complaint process to:

- put things right if they have gone wrong on individual cases and
- identify where we need to make improvements to our service.

In 2018/19 we dealt with 77 formal complaints about our service. We completed around 10,000 enquiries and investigations. Complaints about our service therefore happen in less than 1% of cases. We upheld, or partly upheld, 50% of the complaints, which is about the same as the year before.

Where we upheld a complaint, we took action to put things right by, for example, making an apology or re-visiting certain issues, where that was possible. Every time a complaint is upheld, everyone involved in the case is made aware of the complaint and any learning points. On one occasion we paid compensation. If compensation is appropriate, we try to reflect the approach we take when directing other organisations to make payments to complainants in recognition of distress and inconvenience.

Complaints about our service can be escalated to the Parliamentary and Health Services Ombudsman (PHSO). In 2018/19 PHSO were involved in one complaint and suggested a resolution with which we complied.

## The courts

### Appeal figures

Determinations of the Pensions Ombudsman and the Pension Protection Fund Ombudsman are final and binding, subject to appeal on a point of law to the High Court in England and Wales, the Court of Appeal in Northern Ireland and the Court of Session in Scotland.

#### Pensions Ombudsman appeals

Outstanding at the start of the year	5
New <sup>4</sup>	15
Successful application to refuse appeal made during the year <sup>5</sup>	1
Heard/settled/withdrawn during the year	13
Remaining at year end	8

#### Pension Protection Fund Ombudsman appeals

Outstanding at the start of the year	1
New	0
Heard/settled/withdrawn during the year	1
Remaining at year end	0

### Right of appeal and another bite of the cherry

Appeals to the High Court in England and Wales against a Determination of either the Pensions Ombudsman or the Pension Protection Fund Ombudsman are subject to the Civil Procedure Rules. Since 6 April 2014, a party applying to the court has required the consent of the High Court for any appeal against a Determination or direction in England and Wales.

Just under 50% of cases heard this year (6 of 13) were refused permission to appeal the Ombudsman's Determination.

But a party can apply to have the court's decision to refuse permission to appeal reconsidered. There have been two hearings this year challenging a refusal, one of which succeeded, *Stewart v NHS BSA*<sup>6</sup>. In *Stewart*, the High Court initially refused permission, so the case was recorded as resolved in last year's Annual Report. But Dr Stewart subsequently, this year, obtained

<sup>4</sup> Some of these are multiple proceedings concerning the same Determination

<sup>5</sup> See discussion on *Stewart v NHS BSA*

<sup>6</sup> [2018] EWHC 2285 (Ch)

permission to appeal. His appeal went on to be upheld and the court remitted the matter to us for re-Determination. We confirmed the judgment in a new Determination. Broadly, the judge had found that where an employee suffers an infection outside his normal workplace, it is sufficiently linked to his employment if the infection occurs where the employee is residing at the hotel whilst attending a related professional conference.

### Notification of appeals to the Ombudsman

In previous annual reports we highlighted the work we have carried out over the years to improve notification of appeals to this office. We are not always notified about new appeals or kept up to date with developments in existing appeals which makes it difficult for us to consider our position in relation to the appeal.

We continue to see some improvement in the notification of new appeals to this office and we are grateful to the courts and the representatives of parties.

However, two appeal cases have come to our attention this year that we were not made aware of when proceedings were started. This precluded us from considering whether our participation was required or may otherwise have assisted the court.

We intend to continue working with the courts and parties to appeals to ensure that they:

- inform us once they issue proceedings
- keep us updated as to the progress of the appeal
- send us copies of any key documents
- notify us of any hearing dates
- ideally send us a copy of the judgment once the appeal is concluded.

We are grateful for the support of the Pensions Litigation Court Users' Committee in seeking to assist with this message. We are looking to support the smooth and fair running of these appeal cases.

### Ombudsman active participation in appeals

In previous annual reports, we have mentioned The Pensions Ombudsman's adoption of a more proactive policy concerning whether to intervene in appeals of Determinations. Our overarching aim is that our participation should always be to 'seek to assist the court'.

With this in mind, we have participated on a limited basis in one appeal case, *The Fire Brigades Union (FBU) v Fordham*<sup>7</sup>. We had found that the FBU breached a promise to provide Mr Fordham with equivalent benefits to those

<sup>7</sup> [2018] EWHC 1978 (Ch)



he would have received if he had remained in the Firefighters' Pension Scheme when he left to become a union official and joined the FBU Scheme<sup>8</sup>. The appeal addressed three main points. First, whether a promise had in fact been made and breached; second, whether the matter fell within our jurisdiction; and third, whether the complaint had been referred to us in time.

Having carefully considered the appeal paperwork, with the permission of the court, we filed written representations for the matter to be remitted back to us for further investigation and a new Determination to be made. The reason for this was that there was a potential question outstanding as to whether the promise to provide equivalent benefits to the Firefighters' Pension Scheme, covered the unusual situation whereby additional benefits had ultimately been provided to firefighters outside of that scheme by way of redress following our Determination in the case of Milne<sup>9</sup>.

The parties consented to our application to participate. However, at the hearing the judge decided that remittance was not required and that the FBU's appeal should fail on the basis that the evidence was sufficient to establish a breach of contract. The FBU had breached its obligation to ensure Mr Fordham was no worse off than if he had remained a member of the Firefighters' Pension Scheme. Had he remained a member of the Firefighters' Pension Scheme, he would have been entitled to apply for compensation following the Milne decision. The judge also found that the complaint was in time, albeit for different reasons to those that we had given.

## Some interesting appeals

Appeals, whether upheld or not, often provide helpful guidance for us and the industry from the courts. Although most appeals turn on their own facts, we have summarised below some appeal cases that have wider relevance.

### The Ombudsman is a 'competent court' for the purposes of recoupment of overpayments

In last year's Annual Report, we highlighted the case of *Burgess v BIC UK Ltd*<sup>10</sup>. Although this case did not directly relate to an appeal of one of our Determinations, Mr Justice Arnold made comments not forming part of his judgment on the issue before the court, that recoupment was a form of set-off, enforceable only 'under an order of a competent court' in accordance with section 91(6) of the Pensions Act 1995. He commented that he did not consider TPO to be a 'competent court'. We were not a party in the *Burgess* case and had no opportunity to make any arguments in relation to the conclusion reached. We consider that, if this point had been in issue, and thus fully argued, the court would have ruled differently.

8 PO-13339

9 PO-1327

10 [2018] EWHC 785 (Ch)

We have since published a fact sheet<sup>11</sup> explaining in detail our view that the Ombudsman is a ‘competent court’ when making Determinations in relation to trustee recoupment in overpayment cases. This position has been met by positive industry comment.

### Interpreting scheme rules

Many cases that we deal with require consideration of, often very old, deeds and scheme rules. The wording used can be ambiguous and contentious, with a trustee seeking an interpretation that is favourable to its analysis, which it may have adopted across a wider membership, and the member seeking an alternative interpretation to support their complaint. Our role is to interpret the wording, not to rewrite it. It is not always easy to determine whether a purposive meaning should be adopted over a more literal or strict interpretation of the wording used. This was the issue in dispute, and under consideration, in the appeal case of *Universities Superannuation Scheme Limited (USS) v (1) Scragg (2) University of Dundee*<sup>12</sup>. The Ombudsman’s Determination and USS’s appeal concerned the construction of incapacity procedures set out in the scheme rules and whether USS Limited (the **Trustee**) was bound by the employer’s opinion on incapacity. The relevant wording was:

*“the trustee company determines that the member is suffering from total incapacity or partial incapacity”.*

The Ombudsman upheld Mr Scragg’s complaint on the basis that once the employer had decided he was suffering from incapacity, as required by a separate provision of the scheme rules, the above rule only gave power for the Trustee to decide whether that incapacity was total or partial, rather than contesting the employer’s opinion and concluding that no incapacity had been incurred at all. During the appeal, Mrs Justice Rose applied the principles set out by the Supreme Court in *Barnardo’s v Buckingham and Others*<sup>13</sup> in relation to the construction of pension scheme rules. This held that the courts should give weight to textual analysis, by concentrating on the words which the draftsman has chosen to use and by attaching less weight to the background factual matrix than might be appropriate in certain commercial contracts. Rose J commented:

*“That focus does not derogate from the need to avoid undue technicality and to have regard to the practical consequences of any construction. The analysis involves a purposive construction where that is appropriate”.*

<sup>11</sup> <https://www.pensions-ombudsman.org.uk/wp-content/uploads/Recoupment-in-Overpayment-case-.pdf>

<sup>12</sup> [2019] EWHC 51 (Ch)

<sup>13</sup> [2018] UKSC 55

Having applied the above approach to the circumstances of the case, Rose J overturned the Ombudsman's Determination and held that the relevant rule required the Trustee to decide whether the member is suffering from total incapacity, partial incapacity or no incapacity at all. Explaining her decision, Rose J noted that the Trustee's decision on incapacity was required to be made on the basis of a medical opinion. She commented that if the doctors cannot form the opinion, based on the evidence they see, that the member suffers from any incapacity, they cannot give an opinion as to whether that incapacity is partial or total. The fact that the rules required the Trustee to obtain a medical opinion on the incapacity therefore indicated that it was not bound to accept the employer's opinion on incapacity if this was contrary to the conclusions of that medical opinion. Rose J also commented that in a multi-employer scheme it is the task of the Trustee to safeguard the assets of the fund, whereas the employer may have different motivations for supporting an employee's application for ill health.

### The introduction of new arguments at the appeal stage

The *Scragg* case also addressed a second point of interest to our office about whether it is proper for parties to raise new issues before the appeal court that were not argued before us. Rose J refused to consider the new issues raised by Mr Scragg. She decided that by introducing these new issues Mr Scragg was effectively asking the court to make an entirely different decision, rather than upholding the Ombudsman's Determination on additional grounds. She also found that to consider the new submissions would undermine the framework set up by pensions legislation, which requires complaints to go through an IDRP.

### Appeals can be costly affairs

We have previously highlighted the cost implications of, and barriers to, individual applicants participating in appeals where the Ombudsman has upheld their claim. Our Determinations are usually made without any costs consequences for either party. However, where we find in an applicant's favour, the respondent is free to appeal our Determination and there may be a considerable difference in resources available to the parties in taking part in court proceedings.

In such cases, the applicant is faced with a difficult choice between allowing the respondent's appeal to be heard uncontested or to argue their corner and face the risk of significant costs, both in relation to their own legal fees and those of the respondent, if the appeal proves to be successful.

In *SIRBS Pensions Trustee Limited v Styles, Armitage and Brown*<sup>14</sup>, this was the choice faced by the three applicants. One applicant, Mr Armitage, elected to

<sup>14</sup> The judgment for this appeal was issued as *Coats UK Pension Scheme Trustees Limited v (1) Styles (2) Armitage (3) Brown* [2019] EWHC 35 (Ch)

participate in the appeal, whilst the others did not. The appeal succeeded. Mr Armitage had agreed a cost-limiting order with the respondent at the start of the case and was ordered to pay this agreed amount towards the respondent's legal fees.

Applicants can make applications for relief from costs where the lower court operated under a no costs regime and, indeed, Mr Armitage had made such an application. However, the judge commented that such applications were required to be made early in proceedings and that a delay in making an application could be prejudicial. In this case, having made a private cost-limiting agreement, Mr Armitage did not contest the costs at the scheduled costs hearing, so it remains to be seen how prejudicial any late application by an applicant might prove to be.

### Firefighters receive clarity on what is and is not pensionable salary

Two separate appeals<sup>15</sup>, which were heard together, arose this year as a consequence of a Determination that the Ombudsman issued regarding the pensionable status of allowances that were awarded to firefighters. These appeal cases also highlight the importance of clear and precise wording if disputes over pension entitlements are to be avoided. The relevant wording in these cases excluded from pensionable pay:

*“any allowance or emoluments paid to the firefighter member on a temporary basis”.*

Mr Skhane's complaint concerned his urban search and rescue allowance; Mr Bradshaw his training allowance; Mr Booth his daily crew allowance; and Mr Jones his self-rostered crewing allowance. The complaints being that the allowances were pensionable. The Mid and West Wales Fire and Rescue Authority (**the Authority**) argued that these additional allowances were not pensionable because, broadly, the arrangements could be ceased at any time and were not permanent.

The Ombudsman upheld the complaints of Mr Skhane and Mr Bradshaw, but dismissed the complaints of Mr Booth and Mr Jones. The Ombudsman relied on an earlier court decision, *Smith v South Wales Fire and Rescue Service*<sup>16</sup> that held that the fact that the allowance could end if the firefighter moved to a different station or duty meant that it could not be said to be permanent, which precluded Mr Booth and Mr Jones' crew allowances from being pensionable pay. This resulted in Mr Booth and Mr Jones appealing against the Ombudsman's Determination of their complaints; and the Authority appealing against the Ombudsman's Determination in favour of Mr Skhane and Mr Bradshaw.

<sup>15</sup> [2019] EWHC 790 (Ch)

<sup>16</sup> (22/03/2013 Judgment unreported)

In relation to Mr Booth and Mr Jones' appeal, Mr Justice Fancourt agreed with the Ombudsman that the allowances were paid in relation to the performance of the duties of the firefighter member's role, but he disagreed that the allowances were temporary. Fancourt J held that they were permanent, stating that:

*"I consider that what is meant by "permanent" is pay other than allowances or emoluments that are temporary in the sense of being occasional, one-off, irregular or for a limited period of time only".*

In applying the above principles to Mr Booth and Mr Jones' crewing allowances, Fancourt J held that the fact that the allowance would only be permanent until such time as the firefighter changed his station or his duties did not render the allowance temporary. He noted that such changes to a firefighter's station may never happen and that even where they did, it was likely that the allowance would be replaced with a different one and would remain regular remuneration for working as a firefighter on such system as the Authority may require.

The appeal by the Authority against the Ombudsman's Determination that Mr Bradshaw's training allowance was pensionable pay was allowed in part. The judge disagreed with the Ombudsman as to the full pensionable period and held that the training allowance only became pensionable when his role as Direct Trainer became permanent in July 2012, it having been a temporary promotion before this date.

As regards Mr Skhane's urban search and rescue allowance, the judge disagreed that it was pensionable and held that the allowance was not a permanent emolument and therefore allowed the Authority's appeal. The allowance was paid under a short-term contract, with the aspiration to renew it on an annual basis, subject to funding. The judge held that although there was an aspiration that the one-year contract should be renewed, this did not amount to the degree of permanency necessary.

The judge's findings are welcomed in achieving clarity on pension entitlement for firefighters. Lessons can be learnt from this dispute, which might have been avoided by clearer wording of the scheme rules.

### **A long running Scottish appeal**

In last year's Annual Report, we referenced the long running appeal of Mr Lilburn. Mr Lilburn's application for permission to appeal to the Supreme Court was refused. The judge found that Mr Lilburn's appeal raised no arguable points of law and awarded costs in our favour. This, hopefully, brings this case to an end.

The case highlights the difference of approach dealing with appeals between the Scottish courts, and those of England and Wales where it is likely that this challenge would have been refused permission at a much earlier stage (the Determination had been determined over eight years earlier). Considerable public funds were expended and although we were awarded costs, there was little point in pursuing recovery particularly as we had reason to believe that Mr Lilburn would not have the means to pay.

### Investigation by the Information Commissioner's Office (ICO)

In last year's Annual Report, we noted that Dr Turner's appeal to the First Tier Tribunal was unsuccessful. This year, Dr Turner made a fresh request under the Freedom of Information Act for disclosure of documentation, including third parties' complaints and our corresponding decisions. We refused Dr Turner's request and he referred a complaint to the ICO. We are currently cooperating with the ICO's investigation into this matter.

### Reference to the Court of Justice of the European Union (CJEU) by the Court of Appeal in respect of a Pension Protection Fund (PPF) Ombudsman determination

In previous annual reports, we provided an update on Mr Hampshire's appeal<sup>17</sup>, where judgment was handed down in the Court of Appeal on 28 July 2016. We had noted that the Court of Appeal ordered a reference to the CJEU on two points: the meaning of Article 8 of the EU Insolvency Directive; and whether it has direct effect in the UK. The judgment of the CJEU was received in September 2018, ruling that individual members should receive at least 50% of the value of their accrued benefits in the event of employer insolvency.

To avoid any risk that would run counter to that judgment, the DWP reconsidered its legislative proposals intended to reverse the effect of the High Court's decision in *Beaton v The Board of the Pension Protection Fund*<sup>18</sup> that benefits were not aggregate for compensation cap purposes.

### Judicial reviews

We received no new judicial reviews this year.

<sup>17</sup> Our ref PPFO-750; Grenville Holden Hampshire v The Board of the Pension Protection Fund [2014] EWHC 4402 (Ch) and [2016] EWCA Civ 786

<sup>18</sup> [2017] EWHC 2623 (Ch)



## Other key developments

### Key achievements against our Corporate Plan

Our Corporate Plan 2018-2021 sets out our vision to further shorten and simplify the customer journey while maintaining quality and reaching the right outcome. This section outlines our key developments against our three strategic aims. It also covers information about our people, steps we've taken to reduce energy consumption and a summary of the risks we've faced and the action we've taken to mitigate these.

#### Strategic aim one: Providing one centre for the resolution of workplace and personal pension complaints

##### Signposting and schemes' internal dispute resolution procedures

This year, having regard to the work of the Financial Ombudsman Service (FOS) and TPAS, we produced some generic template signposting for the industry<sup>19</sup>.

Following the transfer of TPAS' dispute resolution service<sup>20</sup> to TPO in March 2018, schemes were not only concerned about signposting complaints to us, but also doing so before their IDRPs had been completed. The backdrop being that legislation has yet to catch up with events. We listened to those concerns and initiated the joint statement issued by DWP and TPR in September 2018<sup>21</sup>. This statement clarified the signposting for referring complaints to us rather than TPAS. It also confirmed that, despite the current absence of legislation, there would be no purpose served in considering penalties for schemes referring complaints to us that have not first gone through the scheme's IDRPs.

##### DWP consultation on extending TPO's powers

DWP published a consultation paper 'The Pensions Ombudsman: dispute resolution and jurisdiction' in December 2018. This consultation follows the transfer of the dispute resolution function to TPO from TPAS and reflects both the continuation of the previous good work and our progression to a more modern, streamlined service which is ideally suited to the current pensions and complaints handling environment. It also proposed to clarify the exiting legislation to confirm that an employer may complain on its own behalf against a person responsible for the management of a scheme (for example, a personal pension arrangement for its staff).

<sup>19</sup> <https://www.pensions-ombudsman.org.uk/2018/09/signposting-for-pension-dispute-resolution-just-became-clearer/>

<sup>20</sup> TPAS' dispute resolution service became known as the 'early resolution service' upon transferring to TPO

<sup>21</sup> <https://www.pensions-ombudsman.org.uk/wp-content/uploads/Final-Signed-Letter-on-the-move-of-Dispute-Resolution-from-TPAS-to-TPO.pdf>

### Consumer Panel

In March, we held our first Consumer Panel, exploring how we might begin to work with a new group of stakeholders who represent consumers. We discussed:

- What can we do to better facilitate networking with consumer groups?
- How do you want to input ideas to influence our plans for the future?
- How can we work better together to improve the customer journey?
- What do you think are the barriers to consumer engagement and how can we make sure we get meaningful input from consumers?

It became clear that we need to continue to publicise who we are and what we do. We will be building on this work over the coming year, replicating our initial work with stakeholders across the pensions industry to build meaningful relationships with consumer groups.

### Customer survey

In March, we sent out two customer surveys to reflect the work of:

- early resolution cases
- usual investigations.

#### Early resolution

The survey was sent to **712** early resolution customers and we had **137** responses representing a **19%** response rate.

#### Usual investigations

The survey was sent to **1,738** investigation customers and we had **559** responses representing a response rate of **32%**.







## Summary of results

Question	Early resolution	Investigations
<b>How did you first become aware of TPO?</b>	25%	18%
Internet/search engine	25%	28%
Referral by TPAS/FOS		
<b>How easy was it to contact us?</b>	88%	82%
Very/Fairly easy		
<b>How easy was it to complete our application form?</b>	N/A	74%
Very/Fairly easy		
<b>How easy was it to find what you were looking for on our website?</b>	62%	58%
Very/Fairly easy		
<b>How clear was the information on our website?</b>	84%	77%
Very/Fairly clear		
<b>When you first made contact how quickly did you receive a response?</b>	81%	69%
Within one month		
<b>How would you rate the speed of our initial response?</b>	64%	50%
Good/Very good		



Question	 Early resolution	 Investigations
<b>In our telephone conversation we ...</b>		
Made it clear at the outset what we could or could not help with	82% agreed/ strongly agreed	77% agreed/ strongly agreed
Explained the process your complaint will go through	83% agreed/ strongly agreed	62% agreed/ strongly agreed
<b>Of those we dealt with in writing</b>		
Was clear and concise	78% agreed/strongly agreed	60% agreed/strongly agreed
Was useful to you	76% agreed/strongly agreed	51% agreed/strongly agreed
<b>Overall how satisfied are you with the service from TPO?</b>		
Very/fairly satisfied/neutral	79%	57%
<b>How much do you agree/disagree with the following</b>		
TPO deals with complaints in a professional manner	76% agreed/strongly agreed	44% agreed/strongly agreed
<b>How likely would you be to recommend TPO?</b>		
Very/fairly likely	77%	53%
<b>How satisfied were you with the time taken to resolve/make a decision?</b>		
Very/fairly satisfied/neutral	90%	55%



## Strategic aim two: Supporting and influencing the pensions industry and the wider alternative dispute resolution sector to deliver effective dispute resolution

### Publication of revised policy on awards for non-financial injustice

In last year's Annual Report, we discussed the appeals of Dr Baugniet<sup>22</sup> and Mrs Smith<sup>23</sup>. The judgments considered the appropriate level of an award for non-financial loss and concluded that our approach to such awards at that time should be adjusted to take account of inflation and the extent of the actual injustice suffered. We said that we would increase the upper limit for non-exceptional awards and provide guidance outlining a move to fixed levels of awards and the circumstances in which they would be made, to promote predictability and consistency. In May 2018, we published guidance on our new approach to awards for non-financial injustice<sup>24</sup>.

### Legal Forum

In May and December 2018, we hosted our second and third Legal Forum. During the year, topics for discussion included signposting, distress and inconvenience, and that the Pensions Ombudsman is a competent court. Insights were gained and various publications produced. By further developing our stakeholder engagement, we aim to improve communication and achieve a better understanding of the needs of our customers. The events were well attended by lawyers from a range of law firms, large pension schemes and pensions advisers.

### Stakeholder Engagement Programme

Building strong and trusted relationships with a range of stakeholders is more important than ever and enables us to improve the customer journey through consultation and collaboration by:

- raising awareness of what we do
- sharing best practice
- listening to what our stakeholders want from us.

22 [2017] EWHC 501 (Ch)

23 [2017] EWHC 2545 (Ch)

24 <https://www.pensions-ombudsman.org.uk/wp-content/uploads/Updated-Non-financial-injustice-September-2018-2.pdf>

### What have we done?

- In February 2019 we held our second **Stakeholder Event**, bringing together approximately 50 people from across the pensions industry.
- Our **Stakeholder Newsletter** (circulated to over 3,000 people working at the coalface of the pensions industry) continues to evolve and we welcome contributions and insight from our readership.
- Our dedicated Stakeholder Relationship Managers, recruited from our hard-working Adjudicators, continue to build their role by visiting schemes and providers.
- We have expanded the contacts we have made working with our sponsors DWP to explore joint opportunities and initiatives with stakeholders including TPR, PPF and the FOS.
- We have attended a significant number of events and spoken to a variety of audiences to explain who we are, what we do and share the widescale changes we have been implementing.
- We have attended and supported Pensions Management Institute (PMI) events, welcomed its input to our training and accreditation for our staff and are exploring how we might recruit new volunteers when individuals achieve PMI accreditation.
- Our work with the Ombudsman Association has allowed us to share best practice and work together with colleagues in the expanding world of ombudsman services.

### Next steps

- Our stakeholder work has recently been subject to a review by the Government Internal Audit Agency. We welcome that independent oversight and scrutiny and will act upon the advice and recommendations arising from those reports, when published.
- With limited resources, we need to be more strategic about how we work. We are currently developing our Stakeholder strategy; mapping stakeholders and prioritising our resource and expertise to create genuine two-way conversations that ultimately drive better policy, the delivery of our key objectives and improve the customer journey.

## Strategic aim three: Transforming and improving our services and processes

### Case Management System

Having deployed our new Office 365 IT platform in March 2018, we were finally able to apply ourselves to the second phase of our Digitalisation Programme, a new Case Management System (CMS).

In the first part of the year we carried out extensive research into potential products. We identified Dynamics 365 as a system that as part of the Office 365 stack could integrate seamlessly with our platform and meet our case management requirements.

We recognised that our recent operational transformation provided us with an opportunity to take a new dynamic approach that would enable us to respond rapidly and proactively to required CMS changes, rather than be constrained as we were before by third party costs, availability and timescales.

Working with our IT Partner, we proposed procuring a small number of licenses directly from the Supplier (Microsoft) and developing the system internally in stages with training to determine if it actually could meet our requirements.

This approach was taken as a low-cost low-risk alternative and a more effective use of the time and resource in line with our vision.

We used the proof of concept approach where we developed the design concept and over a set period demonstrated that it was feasible. In December 2018 we made the decision to move into Implementation stage and we launched the first version of the new CMS in March 2019.

Alongside this we have been designing a customer portal, where customers will have access to a secure facility to apply online, upload documents and make web enquiries. We expect to launch the portal to customers in the autumn and roll it out to respondents and volunteers later in the year.

### Legal Team

We agreed a reorganisation and expansion of the Legal Team. As part of the reorganisation, a pathway for career progression was introduced and salaries for the Legal Team were increased to bring them more into line with those of other public-sector lawyers and aid staff retention. The new structure will address the growing need for technical and legal advice to support TPO's expanding work load and stakeholder involvement. The new Legal Team will also include technical pension specialists and so become the go-to hub to cover 'specialist' help for the office.

The purpose of the changes includes servicing, supporting and enhancing the expanding casework function so that casework output is accurate and robust; covering the breadth of policy and legislative work that will need to be undertaken; and improving the quality and consistency of TPO's outputs, minimising the risk of reputational damage. All of this will mean complaints can be progressed more quickly and the Legal Team can properly service TPO's wider needs, which can only be a good thing for our customers and for us.

### Quality assurance

A key deliverable in our 2018/19 Corporate Plan was to introduce a new quality evaluation team to contribute to high quality and consistent output. During 2018/19 we recruited a Quality Manager and a Quality Officer. The Quality Manager has carried out an initial assessment on the quality of the work produced by all sections of TPO.

This includes the accuracy of the case files and outcomes, the service provided to both the applicant and respondent and verbatim feedback from both customers and members of staff.

We have agreed a Customer Journey Quality Framework that adopts ISO 9001:2015 standard principles to ensure consistency and high-quality interactions with our customers. Recommendations have been made on the processes and tools that we can use to improve the customer journey and these will be implemented throughout next year.



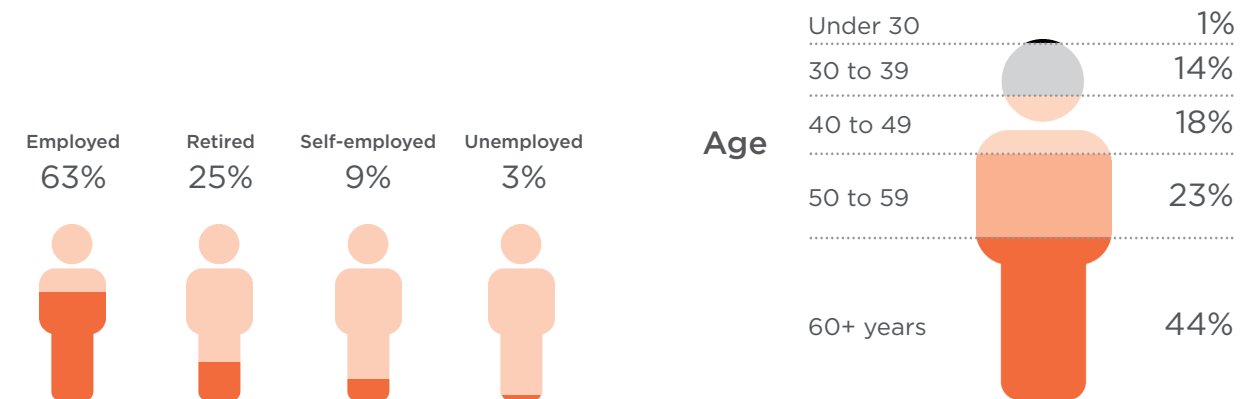
## Our people

### Our volunteers

This is the first year we have engaged volunteers to help deliver our service. We have 240 current and former pension professionals who volunteer their free time to help resolve disputes. All our volunteers have extensive knowledge of the pensions industry. We are very grateful for their help and contribution. They bring impartiality, technical knowledge and experience to help resolve complaints informally, usually without the need to use formal procedures.

We are also grateful to those organisations who have helped promote volunteering for the Pensions Ombudsman.

### Our volunteers are:



### What have we done

- In May 2018, we set up a Sharepoint intranet site for volunteers housing guidance notes, technical resources, policy and procedural documents and contact details.
- In September 2018, we held three volunteer adviser seminars to welcome volunteers to the service and set out how the new service fitted in to TPO's structure.
- In September, we launched the first issue of our new quarterly volunteer adviser newsletters covering a wide range of topics including TPO activities; pension news; and summaries of notable decisions.

- In November 2018, we ran a survey to find out what communications volunteers wanted from us; how they wanted to input ideas and share information; what training and support they needed; and how we could develop the role of volunteers. Almost a third of volunteers responded. Their input and ideas will help us develop our plans.
- During February and March 2019, we hosted ten workshops at a variety of locations across the UK. 110 volunteers attended the workshops with 93% rating the content as good.

### Next steps

- The feedback we've received on the above initiatives has been extremely positive and we will continue to develop these over the coming year in collaboration with volunteers.
- We recognise that our volunteers are an extremely valuable resource for us and we will be looking into initiatives to maximise the benefit they can bring to the service.

### What our volunteers say

*Why volunteer? The obvious answer is to give something back. Pensions is our world. We have been privileged to enjoy interesting careers dealing with all types of retirement provision. We have amassed a wealth of experience and knowledge. Pensions don't frighten us.*

*Yet for scheme members pensions can be complicated and worrying. Saving for retirement is people's biggest financial commitment apart perhaps from buying a house. And when people don't know how the system works and things start going wrong it's not easy to ask the right questions - or understand the answers. Helping others is a Good Thing and we should all do more of it.*

*But the more nuanced reason for volunteering is simply the feelgood factor. It's rewarding to have an opportunity to use your knowledge to reassure someone, to explain difficult points clearly, to tell them you will get answers, to give them the confidence that they have a trusted intermediary who will look at their predicament impartially. Nothing beats receiving an email saying, "Thank you, now I understand, I couldn't have done it without you."*

*Work satisfaction, great camaraderie, unstinting support from HQ, interesting training seminars that probe and extend our knowledge, TPO volunteers have it all...what's not to like?*

**Pauline Armitage**



## Our staff

### Staff survey

In March 2019, we conducted our annual staff survey. It provides us with valuable information and insights into how people feel about working for The Pensions Ombudsman, what's working well and areas where we can improve.

Our 2018/19 staff survey looked at:

- My work
- Our aims and objectives
- Our organisation
- My pay
- My manager
- My learning opportunities

Overall the results of this year's survey are very positive with a number of upward trends compared to previous years. However, there are a few areas of note and we will act to address these areas throughout 2019/20.

### Highlights from the staff survey

#### My work

Percentage of staff that find their work interesting, challenging and stimulating

84%



Percentage of staff that can balance their work and personal lives - greatly improved compared to previous years

86%





### Our aims and objectives

**89%** clearly understand the organisation's aims and objectives



But only **52%** of staff are clear about the organisation's plans for the next 12 months - so there's work for us to do here



### Our organisation

**85%** of staff are proud to tell others that they work for TPO and 73% of staff would recommend TPO as a good place to work



**74%** understand and agree with the direction the organisation is moving



### My pay

Pay isn't the most important factor for our staff with (only **35%** state pay is the most important factor).



However only **49%** of staff believe their pay is fair for the work they do.





### My manager

**69%** of staff believe their manager inspires them to perform at their very best and 80% feel supported by their managers. Generally, line managers are viewed very positively at TPO

### My learning opportunities

**55%** of staff have accessed suitable learning and development opportunities over the past 12 months



**71%** believe their skills and knowledge have improved over the same period



However, only **42%** of staff believe there are opportunities for career development at TPO - again something we will be addressing in 2019/20.



## Environment and sustainability report

During 2018/19, TPO has undertaken the following initiatives to reduce energy consumption and CO2 emissions.

### Relocation

In April 2018, TPO relocated from offices in Victoria to the new Government Hub in Canary Wharf at 10 South Colonnade (10SC).

The move was part of a government initiative to provide high quality, modern and practical workspaces that encourage flexible and collaborative working at considerably less cost to the taxpayer.

### Smarter working

On relocation, TPO introduced a Smarter Working Policy enabling staff to work from home for up to three days a week along with a system of hot desking for staff working in the office. Despite an increase in staff, the success of our smarter working policy has meant that we did not require additional space to accommodate our additional headcount.

We also introduced a new IT system including laptops and cloud-based soft phones to facilitate flexible working alongside additional conference-based technology to enable staff to attend meetings remotely.

### Going paperless

In March 2019, we launched our new CMS which, once bedded in, will take us one step nearer to achieving our vision of a paperless office.



## Risks and mitigation

Risks	Mitigation
<p><b>Information Technology</b></p> <p>There were risks that our new Dynamics 365 CMS may not be fit for purpose by the time the contract on the old CMS expired.</p>	<ul style="list-style-type: none"> <li>• We engaged additional technical support.</li> <li>• For 'Go Live' we scaled back on the functionality that Dynamics 365 is capable of and launched a 'raw' version with enhancements to follow.</li> <li>• In preparation for Go Live we appointed and trained users to support staff in using the new system, provided training in various guises along with a 'How to' guide, a dedicated mailbox for queries and 'frequently asked questions' updated on a rolling basis.</li> </ul>
<p><b>Recruitment and retention of pensions specialists</b></p> <p>The roles at TPO require specialist knowledge of pensions alongside other key skills. Difficulties or delays in recruiting to certain roles may cause a reduction in output.</p>	<ul style="list-style-type: none"> <li>• The Executive Board agreed to trial a new recruitment strategy, including regular planned recruitment drives throughout the year.</li> <li>• We made changes to our recruitment adverts highlighting the benefits of working for TPO.</li> <li>• We restructured our Legal Team and are looking at career progression paths within casework teams at TPO.</li> <li>• We have invested in Learning and Development for our staff, which will be ongoing.</li> </ul>



Risks	Mitigation
<p><b>Signposting to TPO</b></p> <p>The transfer of the early resolution work from TPAS, without corresponding legislation, may lead to a reduction in the number of stakeholders signposting disputes and complaints to TPO.</p>	<ul style="list-style-type: none"> <li>• We prepared signposting templates and disseminated them to partners and stakeholders.</li> <li>• We extended our Stakeholder Engagement Programme; increasing our number of contacts and participating in talks and presentations across the UK to raise awareness of TPO.</li> <li>• We initiated and welcomed the joint statement from DWP and TPR clarifying the signposting provisions to TPO.</li> </ul>
<p><b>Change management</b></p> <p>Staff will suffer from 'change fatigue' and disengage from the process.</p>	<ul style="list-style-type: none"> <li>• We held a staff conference to share insights and increase our knowledge and understanding of each other's work to help us work better together in the future.</li> <li>• Held two Give and Gain days (corporate volunteering); providing staff with the opportunity to get to know each other better outside of the office at the same time as contributing something worthwhile to local charities.</li> <li>• Have gathered feedback from staff on a number of initiatives to maximise engagement and ensure staff have a voice.</li> </ul>

**Pensions Ombudsman**  
**Pension Protection Fund Ombudsman**

# Accountability report



## Statement of Accounting Officer's responsibilities

Under Section 145(8) of the Pension Schemes Act 1993 and Section 212A of the Pensions Act 2004, the Secretary of State for Work and Pensions (with the consent of HM Treasury) has directed the Pensions Ombudsman and Pension 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 fair view of the state of affairs of the Pensions Ombudsman and the Pension Protection Fund Ombudsman and of its net resource outturn, application of resources, changes in taxpayers' equity 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 judgments 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
- prepare the accounts on a going-concern basis.

The Accounting Officer of the Department for Work and Pensions (DWP) has designated the Pensions Ombudsman as Accounting Officer of The Pensions Ombudsman (TPO) and Pension Protection Fund Ombudsman (PPF). 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 TPO and PPF Ombudsman's assets, are set out in the non-departmental public bodies (NDPB) Accounting Officers' Memorandum and in Managing Public Money issued by HM Treasury.

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.

The Pensions Ombudsman confirms that the Annual Report and Accounts as a whole is fair, balanced and understandable and takes personal responsibility for the Annual Report and Accounts and the judgments required for determining that it is fair, balanced and understandable.



## Governance statement

### Scope of responsibility

The statutory role of the Pensions Ombudsman is primarily determined by Part X of the Pension Schemes Act 1993 and Part X of the Pension Schemes (Northern Ireland) Act 1993. The statutory role of the Pension Protection Fund Ombudsman is primarily determined by sections 209 to 218 of the Pensions Act 2004.

The Pensions Ombudsman and Pension Protection Fund Ombudsman is a statutory commissioner appointed to both posts by the Secretary of State for Work and Pensions. As post-holder, I am the designated Accounting Officer, accountable (through the DWP Principal Accounting Officer) to Parliament for regularity and propriety in use of public finances. I therefore have responsibility for maintaining a sound system of internal control that supports the statutory functions of The Pensions Ombudsman.

### Governance framework

#### Framework agreement with the DWP

The Framework Document identifies the differing responsibilities of the DWP Accounting Officer and The Pensions Ombudsman Accounting Officer. In particular, it describes the requirements for the keeping of records and access to them, preparation of corporate and business plans and annual reports, arrangements for audit, spending controls and delegations, and in-year reporting.

The DWP receives reports on performance, finance and risk at quarterly accountability meetings.

#### Corporate governance

The Pensions Ombudsman and Pension Protection Fund Ombudsman is a statutory commissioner and is not a corporate body.

The Executive Board has been in place since early 2016. In 2017, a Non-Executive Director was added to provide support and advice on leadership and good governance. This is a non-remunerated post.

Our Non-Executive Director undertook an assessment in October 2018 in order to provide TPO with assurance that an appropriate governance structure is in place. The review did not highlight any significant issues with the effectiveness of TPO's Board.

TPO is looking to appoint a second Non-Executive Director in 2019/20 in line with 'Corporate governance in central government departments: code of good practice'.

## Executive Board

Pensions Ombudsman – Anthony Arter  
Casework Director – Fiona Nicol  
Business Director – Jane Carey  
Legal Director – Claire Ryan  
Non-Executive Director – Mark Ardron

## Internal governance

The overarching aim of the Executive Board is to take a long-term view and think about what we need to do now in order to meet the challenges facing us in the months, and years, ahead.

With this in mind, the Executive Board will:

- set strategy – for casework handling, finance, HR, legal and communications (internal and external)
- initiate policies
- plan for the mid and long term
- monitor and measure achievement
- provide leadership – which includes modelling behaviours
- be outward facing – maintaining and further developing links with stakeholders
- monitor progress against the Corporate Plan.

We introduced a Deputy Casework Director role in 2018 to be responsible for the teams who manage our day-to-day casework activities and stakeholder engagement. The postholder has direct line management responsibility for five of the senior managers. The Deputy Casework Director reports to the Casework Director.

## Senior Managers

Deputy Casework Director  
Casework Manager  
Pathway Manager  
First Contact Manager  
Stakeholder Manager  
Head of Early Resolution  
Business Manager  
HR Manager  
Legal Manager

Responsibility for the day-to-day running of the service rests with the senior managers and the directors meet with their respective operational managers at least monthly to discuss relevant operational issues.

An operational delivery group was introduced in January 2019 to provide a weekly forum for senior managers to review collective performance and provide a consistent report to the Executive Board.

In the year there were 12 meetings of the Executive Board. Out of the 12 meetings held in 2018/19 Anthony Arter attended 10; Jane Carey attended 11; Fiona Nicol attended 11; Claire Ryan attended 12; and Mark Ardron attended 12.

The monthly Executive Board meetings include updates from all the directors on casework statistics, legal issues, business updates and how we are performing against our strategic objectives.

### **Tailored Review**

As a non-departmental public body, TPO is subject to a Tailored Review at least once in the lifetime of a Parliament. The current review of TPO commenced in January 2019. The review is conducted on behalf of the Secretary of State for Work and Pensions. The Cabinet Office has designed a 'three tier' approach which suggests the appropriate levels of scrutiny and governance for the review. TPO's review is classified as Tier three (the lowest) reflecting the moderate size of the organisation and our excellent record of carrying out our functions effectively.

As TPO has doubled in size since I took up the post, the review also considered whether the governance arrangements currently in place are suitable for a larger organisation.

The Tailored Review aims to provide a robust challenge to, and assurance of, the continuing need for TPO with regard to its functions, its form, its governance and how effective and efficient it is.

We expect the review to conclude later this year and the results will be published by the Cabinet Office. We expect to implement all the recommendations made by the 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. It allows us 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 throughout the year and accords with HM Treasury guidance.

The Executive Board 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 in order to maintain public confidence.

Being a small organisation, those engaged in strategic risk management are also close to 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.

We have carried out a robust risk assessment of the principal risks facing the entity, including those that would threaten our business model, future performance, solvency or liquidity.

I am confident that the quality of the data used by the Board is reliable. All reports prior to submission to the Board are subject to quality assurance processes and are sponsored by a Board member. The effectiveness of the systems that generate the financial and performance data contained within the report is evidenced through positive internal and external audit results.

None of these results this year, were considered unsatisfactory. We aim to keep reports clear, concise and focused on the purpose of the Board's review.

The risk register defines those risks that are regarded as strategic and so within the Executive Board's remit; and those that are operational and dealt within senior managers' meetings. Our approach includes:

- Key risks to the achievement of strategic and/or business delivery, aims, objectives and targets being identified and assigned to named individuals.
- The causes and consequences of those risks being identified.
- There being a consistent scoring system for the assessment of risks on the basis of likelihood and impact.

We determine appropriate 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
- regular monitoring and updating of risk information to ensure new and emerging risks are captured.

## The Audit Committee

In the year, the Audit Committee consisted of two independent members, Roy Field, Chair (appointed March 2010, Chair from April 2014) and Mark Ardron (appointed April 2014) who is Head of Finance at The Pensions Regulator. They are unpaid volunteers, with board level experience in public bodies. In 2017, Roy Field was reappointed for three years and Mark Ardron was reappointed for two years.

The Business Manager, Business Director, and other staff, the external auditors (National Audit Office), the internal auditors (Government Internal Audit Agency) 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 of:

- 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
- the 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, whistleblowing processes and arrangements for special investigations.

The Committee met four times during 2018/19. Roy Field and Mark Ardron attended all four meetings.

## Whistleblowing

Our Whistleblowing Policy is contained within our staff guide. No issues were raised in the year.

## Information security

In accordance with our responsibilities under the Data Protection Act and HMG Security Policy Framework, TPO has in place arrangements for data security. In particular, we have assessed our casework-related data as requiring to be treated as 'official'. Staff are security cleared to a minimum of baseline clearance (BPSS), receive annual training, and are contractually required to follow documented security operation procedures.

There were no breaches requiring notification to the Information Commissioner in the year.

### 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 our internal controls 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 my review concerning the effectiveness of the system of internal control by the Audit Committee, and a plan to ensure continuous improvement is in place.

We have had three internal audit reviews in the year. Financial controls had a 'substantial' assurance and 'GDPR' had a limited assurance. We are still awaiting the outcome of the stakeholder engagement review. We are yet to receive the internal audit annual summary report but based on the previous two reviews we expect the overall assurance level will be 'moderate'. Agreed plans are already in place to address the weaknesses identified.

### Going concern

The funding estimate for 2019/20 for TPO has been approved by the Department for Work and Pensions.

We are satisfied that there are no proposals that give rise to a material uncertainty around the going-concern status of TPO in the forthcoming and future periods and we will continue our operations and meet our liabilities as they fall due.

The accounts have therefore been prepared on a going-concern basis.



**Anthony Arter**

Pensions Ombudsman  
Pension Protection Fund Ombudsman

8 July 2019

## Directors' report

The composition of the Executive Board and its function is outlined on page 66.

A Register of Interests of the Executive Board is available on our website.

There were no personal data-related incidents where these have been formally reported to the Information Commissioner's Office as per our statement on Information security on page 70.

## Remuneration and staff report

### Ombudsman 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.

Directors' salary ranges are determined by The Pensions Ombudsman pay scales.

### Ombudsman service contracts

The length of service contracts is determined by the Secretary of State for Work and Pensions.

Name	Date of appointment	Unexpired term as of 31/03/19	Notice period
Anthony Arter	23 May 2015	2 year 4 months	6 months from employee
Karen Johnston	1 July 2015	1 years 3 months	3 months from employee

Anthony Arter was appointed as Pensions Ombudsman and Pension Protection Fund Ombudsman for four years on 23 May 2015. In December 2018 he was reappointed until 31 July 2021.

Karen Johnston was appointed Deputy Pensions Ombudsman and Deputy Pension Protection Fund Ombudsman for three years from 1 July 2015. In March 2018 she was reappointed for a further two-year period from 1 July 2018 until 30 June 2020.

The Pensions Ombudsman and Deputy Pensions Ombudsman's appointments may be terminated early by the 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, Casework Director, Legal Director and Business Director.

The Deputy Pensions Ombudsman is not part of the Executive Board and is not involved in the management of the organisation so her salary and pension details are not reported here.



The information in this table is subject to audit.

Single total figure of remuneration										
Officials	Salary (£'000)		Bonus payments (£'000)		Benefits in kind (to nearest £100)		Pension benefits (£'000) (Note 1)		Total (£'000)	
	2018/19	2017/18	2018/19	2017/18	2018/19	2017/18	2018/19	2017/18	2018/19	2017/18
Anthony Arter	135-140	130-135	-	-	-	-	-	-	135-140	130-135
Jane Carey	80-85	65-70	0-5	0-5	-	-	123	16	200-205	80-85
Fiona Nicol	85-90	65-70	0-5	0-5	-	-	104	11	185-190	75-80
Claire Ryan	75-80* 90-95**	55-60* 65-70**	0-5	0-5	-	-	77	25	150-155	85-90

\*actual salary \*\* full time equivalent salary

**Note 1:** The value of pension benefits accrued during the year is calculated as (the real increase in pension multiplied by 20) plus (the real increase in any lump sum) less (the contributions made by the individual). The real increases exclude increases due to inflation or any increases or decreases due to a transfer of pension rights.

There have been no off-payroll engagements of Executive Board members.

## Bonuses

Bonuses are based on performance levels attained and are made as part of the performance review process. Bonuses relate to the performance in the previous year. The bonuses reported in 2018/19 relate to performance in 2017/18.

## Pay multiples

The information in this table is subject to audit.

	2018/19 (£'000)	2017/18 (£'000)
Band of highest paid office holder's total remuneration	135-140	130-135
Median total remuneration	39	38
Ratio	3.5	3.5

Reporting bodies are required to disclose the relationship between the remuneration of the highest-paid office holder in their organisation and the median remuneration of the organisation's workforce.

The banded remuneration of the highest-paid office holder in the organisation in the financial year 2018/19 was £135,000-140,000 (2017/18: £130,000-135,000). This was 3.5 times (2017/18: 3.5) the median remuneration of the workforce, which was £38,989 (2017/18: £37,844).

The ratio has stayed the same from 2017/18 to 2018/19. Staff numbers have increased significantly in year, and the median pay increase as a result of these new staff has been counteracted by an increase in the pay of the highest-paid office holder.

In 2018/19 no employees (2017/18: none) received remuneration in excess of the highest paid office holder. Remuneration ranged from £15,000-20,000 to £135,000-140,000 (2017/18: £15,000-20,000 to £130,000-135,000).

Total remuneration includes salary, non-consolidated performance-related pay and benefits in kind. It does not include severance payments, employer pension contributions and the cash equivalent transfer value of pensions.

## Pension benefits

The information in this table is subject to audit.

	Accrued pension at age 65 as at 31/03/19 (£'000)	Real increase in pension at age 65 (£'000)	CETV at 31/03/19 (£'000)	CETV at 31/03/18 (£'000)	Real increase in CETV (£'000)
Jane Carey	30-35 plus a lump sum of 75-80	5-7.5 plus a lump sum of 10-12.5	581	429	94
Fiona Nicol	20-25	5-7.5	426	289	102
Claire Ryan	15-20 plus a lump sum of 40-45	2.5-5 plus a lump sum of 5-7.5	349	254	57

Anthony Arter nominated not to receive any pension benefits as the result of his 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 service in a senior capacity to which disclosure applies.

The figures include the value of any pension benefit in another scheme or arrangement which the member has transferred to the Civil Service pension arrangements. They also include any additional pension benefit accrued to the member as a result of their buying additional pension benefits at their own cost. CETVs are worked out in accordance with The Occupational Pension Schemes (Transfer Values) (Amendment) Regulations 2008 and do not take account of any actual or potential reduction to benefits resulting from Lifetime Allowance Tax which may be due when pension benefits are taken.

## Real increase in CETV

This reflects the increase in CETV that is funded by the employer. It does not include the increase in accrued pension due to inflation, contributions paid by the employee (including the value of any benefits transferred from another pension scheme or arrangement) and uses 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 1 April 2015 a new pension scheme for civil servants was introduced – the Civil Servants and Others Pension Scheme or alpha, which provides benefits on a career average basis with a normal pension age equal to the member's State Pension Age (or 65 if higher). From that date all newly appointed civil servants and the majority of those already in service joined alpha. Prior to that date, civil servants participated in the Principal Civil Service Pension Scheme (PCSPS). The PCSPS has four sections: three providing benefits on a final salary basis (classic, premium or classic plus) with a normal pension age of 60; and one providing benefits on a whole career basis (nuvos) with a normal pension age of 65.

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, nuvos and alpha are increased annually in line with

Pensions Increase legislation. Existing members of the PCSPS who were within 10 years of their normal pension age on 1 April 2012 remained in the PCSPS after 1 April 2015. Those who were between 10 years and 13 years and 5 months from their normal pension age on 1 April 2012 will switch into alpha sometime between 1 June 2015 and 1 February 2022. All members who switch to alpha have their PCSPS benefits 'banked', with those with earlier benefits in one of the final salary sections of the PCSPS having those benefits based on their final salary when they leave alpha. (The pension figures quoted for officials show pension earned in PCSPS or alpha – as appropriate. Where the official has benefits in both the PCSPS and alpha the figure quoted is the combined value of their benefits in the two schemes.) Members joining from October 2002 may opt for either the appropriate defined benefit arrangement or a 'money purchase' stakeholder pension with an employer contribution (partnership pension account).

Employee contributions are salary-related and range between 4.6% and 8.05% for members of classic, premium, classic plus, nuvos and alpha. 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 initial 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 the accrued pension is uprated in line with Pensions Increase legislation. Benefits in alpha build up in a similar way to nuvos, except that the accrual rate is 2.32%. In all cases members may opt to give up (commute) pension for a 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 8% and 14.75% (depending on the age of the member) into a stakeholder pension product chosen by the employee from a panel of 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 0.5% 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, 65 for members of nuvos, and the higher of 65 or State Pension Age for members of alpha. (The



pension figures quoted for officials show pension earned in PCSPS or alpha – as appropriate. Where the official has benefits in both the PCSPS and alpha the figure quoted is the combined value of their benefits in the two schemes, but note that part of that pension may be payable from different ages.)

Further details about the Civil Service pension arrangements can be found at the website [www.civilservicepensionscheme.org.uk](http://www.civilservicepensionscheme.org.uk)

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



## Our staff

### Ombudsman

The holder of the posts of Pensions Ombudsman/Pension Protection Fund Ombudsman and Deputy Pensions Ombudsman/Pension Protection Fund Ombudsman are statutory commissioners. They are excluded from the figures below.

### Staff numbers

The information in this table is subject to audit.

Staff numbers at year end				
	2018/19	2017/18	2016/17	2015/16
Full time equivalent	82.7	72.3	53.6	45.1

During the year we engaged a very small number of short-term temporary staff to carry out administrative duties. Two were engaged as at year end.

There were no exit packages paid during the year.

Staff costs at year end				
	2018/19	2017/18	2016/17	2015/16
Staff costs	£4,344,997	£3,109,807	£2,728,467	£2,223,816

In addition we incurred costs of £60,973 for agency staff (2017/18: £22,197). A breakdown of staff costs between permanently-employed staff and agency staff is contained in Note 3 of the financial statements on page 96.

There was no contingent labour in 2018/19 (2017/18: nil).

### Pay

We are bound to follow HM Treasury guidance for the public sector, so the maximum consolidated increase in total payroll allowed was 1.5%. For non-consolidated awards we were able to use up to an equivalent percentage to the performance pot from the year before.

To be eligible for an award in 2018/19 staff needed to have been in post on the 31 March 2018. All staff received a consolidated 1.5% increase.

### Consultants engaged on the objectives of the entity

During the year we engaged no new people (2017/18: none) on an off-payroll basis for more than £245 per day. However, an appointment made in 2016/17 did carry on until 19 April 2018. TPO assessed this appointment and concluded that IR35 did not apply. The total consultancy spend for the year was £17,123.

### Gender of our staff

	Year end 2018/19		Year end 2017/18		Year end 2016/17	
	Male	Female	Male	Female	Male	Female
Ombudsmen	1	1	1	1	1	1
Directors*	0	3	0	3	-	-
Deputy Director	1	0	-	-	-	-
Managers**	8	3	9	2	6	5
Other employees	32	37	31	30	19	26
<b>TOTAL</b>	<b>42</b>	<b>44</b>	<b>41</b>	<b>36</b>	<b>26</b>	<b>32</b>

\* Not disclosed in 2016/17

\*\* Includes team leaders

### Equality, diversity and inclusion

This is central to all our HR policies and processes. Our HR policies are fully inclusive of all staff regardless of age, working-pattern, disability or long-term health conditions, sex, sexual orientation, pregnancy and maternity, race, religion or belief, gender identity, expression or reassignment, or relationship status; marriage (including equal/same sex marriage) and civil partnership.

A new strategic plan to address equality, diversity and inclusion has been agreed at Executive Board and an initial presentation made to all staff. The plan includes diversity issues and equal treatment in employment; employment issues including employee consultation; and HR management. We will implement the plan throughout the coming year.



## Staff policies for disabled persons

TPO is recognised as Disability Confident Committed having signed up to the Disability Confident commitments. These commitments are:

- inclusive and accessible recruitment
- communicating vacancies
- offering an interview to disabled people who meet minimum requirements
- providing reasonable adjustments
- supporting existing employees.

## Sickness

The average absence for the year was 3.05 days per employee. This figure has reduced slightly from 3.5 days per employee in the previous year.

## Other

TPO has an up to date Health and Safety policy and has a trade union recognition agreement with the Public and Commercial Services (PCS) union.





## Parliamentary accountability and audit report

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.

### Other interests

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

### 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. This is subject to audit.

There were no remote contingent liabilities at the year end. This is subject to audit.

There have been no individual losses or special payments over £300,000 in 2018/19 (2017/18: nil). Total losses and special payments do not exceed £300,000 in 2018/19 (2017/18:nil). This is subject to audit.

The office has a policy of paying invoices within 10 days and monitors compliance with it.

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

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.

The Pensions Ombudsman confirms that the Annual Report and Accounts as a whole is fair, balanced and understandable and takes personal responsibility for the Annual Report and Accounts and the judgments required for determining that it is fair, balanced and understandable.



**Anthony Arter**

Pensions Ombudsman  
Pension Protection Fund Ombudsman

8 July 2019

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

### Opinion on financial statements

I certify that I have audited the financial statements of the Pensions Ombudsman and Pension Protection Fund Ombudsman for the year ended 31 March 2019 under the Pensions Schemes Act 1993 and the Pensions Act 2004. The financial statements comprise: the Statements of Comprehensive Net Expenditure, Financial Position, Cash Flows, Changes in Taxpayers' Equity; and the related notes, including the significant accounting policies. These financial statements have been prepared under the accounting policies set out within them. I have also audited the information in the Accountability Report that is described in that report as having been audited.

In my opinion:

- the financial statements give a true and fair view of the state of Pensions Ombudsman and Pension Protection Fund Ombudsman's affairs as at 31 March 2019 and of net expenditure for the year then ended; and
- the financial statements have been properly prepared in accordance with the Pensions Schemes Act 1993 and the Pensions Act 2004 and Secretary of State directions issued thereunder.

### Opinion on regularity

In my opinion, in all material respects the income and expenditure 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.

### Basis of opinions

I conducted my audit in accordance with International Standards on Auditing (ISAs) (UK) and Practice Note 10 'Audit of Financial Statements of Public Sector Entities in the United Kingdom'. My responsibilities under those standards are further described in the Auditor's responsibilities for the audit of the financial statements section of my certificate. Those standards require me and my staff to comply with the Financial Reporting Council's Revised Ethical Standard 2016. I am independent of the Pensions Ombudsman and Pension Protection Fund Ombudsman in accordance with the ethical requirements that are relevant to my audit and the financial statements in the UK. My staff and I have fulfilled our other ethical responsibilities in accordance with these requirements. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my opinion.

## Conclusions relating to going concern

I am required to conclude on the appropriateness of management's use of the going concern basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Pensions Ombudsman and Pension Protection Fund Ombudsman's ability to continue as a going concern for a period of at least twelve months from the date of approval of the financial statements. If I conclude that a material uncertainty exists, I am required to draw attention in my auditor's report to the related disclosures in the financial statements or, if such disclosures are inadequate, to modify my opinion. My conclusions are based on the audit evidence obtained up to the date of my auditor's report. However, future events or conditions may cause the entity to cease to continue as a going concern. I have nothing to report in these respects.

## Responsibilities of the Accounting Officer for the financial statements

As explained more fully in the Statement of Accounting Officer's Responsibilities, the Accounting Officer is responsible for the preparation of the financial statements and for being satisfied that they give a true and fair view.

## Auditor's responsibilities for the audit of the financial statements

My responsibility is to audit, certify and report on the financial statements in accordance with the Pensions Schemes Act 1993 and the Pensions Act 2004. 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. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with ISAs (UK) will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.

As part of an audit in accordance with ISAs (UK), I exercise professional judgment and maintain professional scepticism throughout the audit. I also:

- identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for my opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.

- obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Pensions Ombudsman and Pension Protection Fund Ombudsman's internal control.
- evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by management.
- evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the consolidated financial statements represent the underlying transactions and events in a manner that achieves fair presentation.

I communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that I identify during my audit.

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

### **Other information**

The Accounting Officer is responsible for the other information. The other information comprises information included in the annual report, but does not include the parts of the Accountability Report described in that report as having been audited, the financial statements and my auditor's report thereon. My opinion on the financial statements does not cover the other information and I do not express any form of assurance conclusion thereon. In connection with my audit of the financial statements, my responsibility is to read the other information and, in doing so, consider whether the other information is materially inconsistent with the financial statements or my knowledge obtained in the audit or otherwise appears to be materially misstated. If, based on the work I have performed, I conclude that there is a material misstatement of this other information, I am required to report that fact. I have nothing to report in this regard.

### **Opinion on other matters**

In my opinion:

- the parts of the Accountability Report to be audited have been properly prepared in accordance with Secretary of State directions made under the Pensions Schemes Act 1993 and the Pensions Act 2004;

- in the light of the knowledge and understanding of the Pensions Ombudsman and Pension Protection Fund Ombudsman and its environment obtained in the course of the audit, I have not identified any material misstatements in the Performance Report or the Accountability Report; and
- the information given in the Performance Report and Accountability Report 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 parts of the Accountability Report to be audited are not in agreement with the accounting records and 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.

Gareth Davies  
Comptroller and Auditor General

National Audit Office  
157-197 Buckingham Palace Road  
Victoria  
London  
SW1W 9SP

12 July 2019



**Pensions Ombudsman**  
**Pension Protection Fund Ombudsman**

# Financial statements **2018/19**



## Statement of comprehensive net expenditure

Year ended 31 March 2019

	Note	2018/19 £	2017/18 £
<b>Expenditure</b>			
Staff costs	3	(4,406,356)	(3,132,004)
Other expenditure	4	<u>(1,639,312)</u>	<u>(1,403,876)</u>
<b>Operating deficit</b>		<u>(6,045,668)</u>	<u>(4,535,880)</u>
<b>Total comprehensive expenditure</b>		<u>(6,045,668)</u>	<u>(4,535,880)</u>



## Statement of financial position

31 March 2019

	Note	As at 31 March 2019 £	As at 31 March 2018 £
<b>Non-current assets</b>			
Property, plant and equipment	5	127,995	137,684
Intangible assets	6	222,724	200,682
Trade and other receivables	7	<u>819,823</u>	<u>736,893</u>
<b>Total non-current assets</b>		<u>1,170,542</u>	<u>1,075,259</u>
<b>Current assets</b>			
Trade and other receivables	7	143,034	147,767
Cash and cash equivalents	8	<u>85,204</u>	<u>198,870</u>
<b>Total current assets</b>		<u>228,238</u>	<u>346,637</u>
<b>Total assets</b>		<u>1,398,780</u>	<u>1,421,896</u>
<b>Current liabilities</b>			
Trade and other payables	9	<u>216,095</u>	<u>859,891</u>
<b>Total current liabilities</b>		<u>216,095</u>	<u>859,891</u>
<b>Assets less liabilities</b>		<u>1,182,685</u>	<u>562,005</u>
<b>Capital and reserves</b>			
General reserve		<u>1,182,685</u>	<u>562,005</u>

The financial statements on pages 88 to 91 were approved on 8 July 2019 and signed by



**Anthony Arter**  
Pensions Ombudsman  
Pensions Protection Fund Ombudsman

8 July 2019

The notes on pages 92 to 104 form part of these accounts.

## Statement of cash flows

Year ended 31 March 2019

	Note	2018/19 £	£	2017/18 £	£
<b>Cash flows from operating activities</b>					
Net operating expenditure		(6,045,668)		(4,535,880)	
Depreciation	5	28,913		16,675	
Amortisation	6	40,341		26,035	
(Increase)/decrease in receivables	7	(78,197)		(813,348)	
Increase/(decrease) in payables	9	(643,796)		686,300	
Loss on disposal of fixed assets		-		6,131	
Net cash outflow from operating activities			(6,698,407)		(4,614,087)
<b>Cash flows from investing activities</b>					
Purchase of non-current assets	5,6	(81,608)		(338,366)	
Net cash outflow from investing activities			(81,608)		(338,366)
<b>Cash flows from financing activities</b>					
Grants from sponsor department			6,666,349		5,131,000
<b>Net financing</b>			6,666,349		5,131,000
Net increase/(decrease) in cash and cash equivalents in the period			(113,666)		178,547
Cash and cash equivalents at the beginning of the period			198,870		20,323
Cash and cash equivalents at the end of the period			85,204		198,870



## Statement of changes in taxpayers' equity

Year ended 31 March 2019

	General reserve £
<b>Balance at 31 March 2017</b>	<u>(33,115)</u>
<b>Changes in taxpayers' equity</b>	
Comprehensive net expenditure for the year	(4,535,880)
Grants from sponsoring department	<u>5,131,000</u>
<b>Balance at 31 March 2018</b>	<u>562,005</u>
<b>Changes in taxpayers' equity</b>	
Comprehensive net expenditure for the year	(6,045,668)
Grants from sponsoring department	<u>6,666,349</u>
<b>Balance at 31 March 2019</b>	<u>1,182,686</u>

Financial statements

The notes on pages 92 to 104 form part of these accounts.

## Notes to the accounts

Year ended 31 March 2019

### 1. Accounting policies

#### Basis of accounting

These financial statements have been prepared in accordance with the 2018/19 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 2018/19

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.

Certain new standards, amendments and interpretations to existing standards have been published that are mandatory for the organisation's accounting periods beginning on or after 1 April 2018 or later periods and which the organisation has decided not to adopt early. These are:

- IFRS 16 Leases (effective for periods beginning on or after 1 April 2020). The new standard replaces IAS 17 Leases and introduces a new single accounting approach for lessees for all leases (with limited exceptions). As a result, there is no longer a distinction between operating leases and finance leases, and lessees will recognise a liability to make lease payments and an asset representing the right to use the underlying asset during the lease term. TPO believes that the most significant impact will be the need to recognise a right of use asset and lease liability for the building lease currently treated as operating lease. At 31 March 2020 the future minimum lease payments would amount to £2,232,563. This will mean that the nature of the expense of the above cost will change from being an operating lease expense to depreciation and interest expense.

## Notes to the accounts

Year ended 31 March 2019

### 1. Accounting policies (continued)

#### **New Standards adopted as at 1 April 2018 – IFRS 9 ‘Financial Instruments’**

IFRS 9 replaces IAS 39 ‘Financial Instruments: Recognition and Measurement’. It makes changes to the previous guidance on the classification and measurement of financial assets and introduces an ‘expected credit loss’ model for the impairment of financial assets.

Adopting IFRS 9 has not resulted in adjustments to the TPO’s classification or measurement of financial assets or financial liabilities.

#### **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 department. It has accordingly been considered appropriate to adopt the going-concern basis for the preparation of these financial statements.

#### **Grant-in-aid**

Grant-in-aid received is used to finance all of the Pensions Ombudsman’s activities. Grant-in-aid is credited to the General Reserve. It is treated as financing because it is regarded as contributions from a controlling party. It is accounted for on a cash basis.

#### **Cash and cash equivalents**

Cash and cash equivalents comprise cash at bank and in hand.

#### **Other income and expenditure**

Other income and expenditure is recognised on an accruals basis.

#### **VAT**

The Ombudsman was not registered for VAT during the financial year 2018/19. All costs are inclusive of VAT.

#### **Property, plant and equipment**

Property, plant and equipment are stated at historic cost less depreciation. The Ombudsman is required to remit the proceeds of disposal of non-current assets to the Secretary of State.

Non-current assets are capitalised where they have an expected useful life of more than one year and where the original cost of the item exceeds the Ombudsman’s capitalisation threshold of £500.

## Notes to the accounts

Year ended 31 March 2019

### 1. Accounting policies (continued)

#### 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. Depreciation is calculated from the date an asset is brought into use until the date it is has either been fully depreciated or disposed of. Depreciate rates are as follows:

- Hardware – straight line over five years

#### Intangible assets

Intangible assets are stated at historic cost less amortisation. The Ombudsman is required to remit the proceeds of disposal of non-current assets to the Secretary of State.

Non-current assets are capitalised where they have an expected useful life of more than one year and where the original cost of the item exceeds the Ombudsman's capitalisation threshold of £500.

#### Amortisation

Amortisation 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. Amortisation is calculated from the date an asset is brought into use until the date it is has either been fully amortised or disposed of. Amortisation rates are as follows:

- Software – straight line over five years

#### 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.

Payments in relation to lease premiums are recognised as an asset in accordance with IAS 17 and amortised on a straight-line basis over the remaining term of the lease and credited to the Statement of Comprehensive Net Expenditure.

## Notes to the accounts

Year ended 31 March 2019

### 1. Accounting policies (continued)

#### 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, but the Ombudsman is unable to identify its shares of underlying assets and liabilities. 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.

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 judgments and key sources of estimation uncertainty

The preparation of financial statements in conformity with IFRS requires management to make judgments, 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 judgment used in applying the accounting policies.

There are no significant sources of estimation uncertainty.

#### Operating segments

The Pensions Ombudsman only reports one operating segment to management for the entire organisation. As such there is no additional analysis requiring disclosure in the accounts.

## Notes to the accounts

Year ended 31 March 2019

### 2. Pension Protection Fund (PPF) Ombudsman element of costs

PPF Ombudsman activity continues to be of relatively limited scale. An informal time recording arrangement is in place to support the split of costs. During the year ending 31 March 2019, 7 PPF Ombudsman cases (2017/18: 16 cases) and 1268 TPO cases (2017/18: 1,591 cases) were closed. Approximately 0.55% (2017/18: 1%) of expenditure and total net liabilities (corresponding to £33,251 for the year ended 31 March 2019) is deemed attributable to the PPF Ombudsman (2017/18: £45,359).

No further analysis of costs is made between PPF Ombudsman and TPO 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 2019	Year ended 31 March 2018
	Permanently employed staff	Others	Total	Total
	£	£	£	£
Wages and salaries	3,339,838	60,973	3,400,811	2,432,388
Social security costs	365,897	-	365,897	261,419
Other pension costs	<u>639,648</u>	<u>-</u>	<u>639,648</u>	<u>438,197</u>
	<u>4,345,383</u>	<u>60,973</u>	<u>4,406,356</u>	<u>3,132,004</u>

The average number of staff employed during the year was 80 (2017/18: 62), and this is why there has been a significant increase in staff costs.

Staff costs include the sum of £1,437 towards the Apprenticeship Levy.



## Notes to the accounts

Year ended 31 March 2019

### 4. Other expenditure

	Note	Year ended 31 March 2019	Year ended 31 March 2018
		£	£
Rent and rates		461,358	419,071
Computer expenses		443,028	390,819
Legal and professional fees		174,637	257,744
Subscriptions		90,572	84,491
Staff recruitment		92,283	48,343
Printing, stationery and postage		63,980	43,811
Auditors remuneration		22,000	20,500
Sundry expenses		20,312	17,690
Staff training		39,755	16,338
Accountancy fees		12,844	14,190
Travel and subsistence		30,365	12,145
Hire of equipment		13,536	12,000
Telephone		10,559	8,152
Business continuity		7,140	7,140
Insurance		20,330	2,189
Bank charges		434	412
<b>Non-cash items</b>			
Lease premium		66,925	-
Amortisation	6	40,341	26,035
Depreciation	5	28,913	16,675
Loss on disposal of fixed assets		-	6,131
		<u>1,639,312</u>	<u>1,403,876</u>

The National Audit Office, who perform our statutory audit, did not conduct any non-audit services nor receive remuneration for such services (2017/18: £nil).

## Notes to the accounts

Year ended 31 March 2019

### 5. Property, plant and equipment

	Office equipment	Leaseholder property	Hardware	Total
Valuation	£	£	£	£
At 1 April 2018	-	-	137,684	137,684
Additions	-	-	19,224	19,224
Disposals	-	-	-	-
<b>At 31 March 2019</b>	<b>-</b>	<b>-</b>	<b>156,908</b>	<b>156,908</b>
<b>Depreciation</b>				
At 1 April 2018	-	-	-	-
Charge for the year	-	-	28,913	28,913
Depreciation on disposals	-	-	-	-
<b>At 31 March 2019</b>	<b>-</b>	<b>-</b>	<b>28,913</b>	<b>28,913</b>
<b>Carrying amount</b>				
<b>At 31 March 2019</b>	<b>-</b>	<b>-</b>	<b>127,995</b>	<b>127,995</b>
At 31 March 2018	-	-	137,684	137,684
<b>Valuation</b>				
At 1 April 2017	47,321	35,668	-	82,989
Additions	-	-	137,684	137,684
Disposals	(47,321)	(35,668)	-	(82,989)
<b>At 31 March 2018</b>	<b>-</b>	<b>-</b>	<b>137,684</b>	<b>137,684</b>
<b>Depreciation</b>				
At 1 April 2017	43,412	22,902	-	66,314
Charge for the year	3,909	12,766	-	16,675
Depreciation on disposals	(47,321)	(35,668)	-	(82,989)
<b>At 31 March 2018</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>
<b>Carrying amount</b>				
<b>At 31 March 2018</b>	<b>-</b>	<b>-</b>	<b>137,684</b>	<b>137,684</b>
At 31 March 2017	3,909	12,766	-	16,675



## Notes to the accounts

Year ended 31 March 2019

### 6. Intangible assets

	Information Technology £	Total £
<b>Valuation</b>		
At 1 April 2018	200,682	200,682
Additions	<u>62,384</u>	<u>62,384</u>
<b>At 31 March 2019</b>	<u><b>263,066</b></u>	<u><b>263,066</b></u>
<b>Amortisation</b>		
At 1 April 2018	-	-
Charge for the year	<u>40,341</u>	<u>40,341</u>
<b>At 31 March 2019</b>	<u><b>40,341</b></u>	<u><b>40,341</b></u>
<b>Carrying amount</b>		
<b>At 31 March 2019</b>	<u><b>222,724</b></u>	<u><b>222,724</b></u>
At 31 March 2018	<u>200,682</u>	<u>200,682</u>
<b>Valuation</b>		
At 1 April 2017	324,212	324,212
Additions	200,682	200,682
Disposals	<u>(324,212)</u>	<u>(324,212)</u>
<b>At 31 March 2018</b>	<u><b>200,682</b></u>	<u><b>200,682</b></u>
<b>Amortisation</b>		
At 1 April 2017	292,046	292,046
Charge for the year	26,035	26,035
Depreciation on disposals	<u>(318,081)</u>	<u>(318,081)</u>
<b>At 31 March 2018</b>	<u><b>-</b></u>	<u><b>-</b></u>
<b>Carrying amount</b>		
<b>At 31 March 2018</b>	<u><b>200,682</b></u>	<u><b>200,682</b></u>
At 31 March 2017	<u>32,116</u>	<u>32,116</u>

## Notes to the accounts

Year ended 31 March 2019

### 7. Trade and other receivables

	31 March 2019 £	31 March 2018 £
<b>Due after more than one year</b>		
Lease premium	<u>819,823</u>	<u>736,893</u>
	<u>819,823</u>	<u>736,893</u>
<b>Due within one year</b>		
Lease premium	66,925	55,652
Staff loans	10,938	6,481
Prepayments	<u>65,171</u>	<u>85,634</u>
	<u>143,034</u>	<u>147,767</u>

A lease premium of £886,748 (2018: £792,545) has been recognised for advanced payments made to the landlord relating to the property leased by The Pensions Ombudsman from March 2018. This will be released as an expense to the Statement of Comprehensive Net Expenditure over the period of the lease arrangement. Costs incurred have increased from the 2018 position due to further work being conducted after 31 March 2018 in progression towards finalising the fit-out process.

### 8. Cash and cash equivalents

	31 March 2019 £	31 March 2018 £
Balance brought forward	198,870	20,323
Net change in cash and cash equivalent balances	<u>(113,666)</u>	<u>178,547</u>
Balance carried forward	<u>85,204</u>	<u>198,870</u>

The only bank account in use during the year was a commercial account (non-GBS).

## Notes to the accounts

Year ended 31 March 2019

### 9. Other payables

	31 March 2019	31 March 2018
	£	£
Trade payables	48,436	30,840
Accruals	<u>167,659</u>	<u>829,051</u>
	<u>216,095</u>	<u>859,891</u>

Our lease runs from 28 March 2018 and we moved into our new building in 10 South Colonnade (10SC) in April 2018. We still had significant outstanding costs for the fit out so these were correctly reported as Accruals. The accruals were paid throughout the 2018/19 financial year and so at year end 31/03/19 this category of accrual was not as relevant and therefore current year accruals have decreased significantly.

The same occurred with IT services. In preparation for relocation to 10SC we had refreshed our IT hardware and platform. This project went live in mid March 2018 and so at year end we had significant accruals which were paid early in the 2018/19 year. As these accruals were project type costs they are not recurring and therefore following year accruals are correctly significantly reduced.

### 10. General reserves

This reserve is used to record the accumulated grant-in-aid received and expenditure realised during the course of the year, as well as the accumulation of grant-in-aid received and expenditure in previous years.

## Notes to the accounts

Year ended 31 March 2019

### 11. 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 2019	31 March 2018
Obligations under operating leases comprise:	£	£
Not later than one year	182,250	182,250
Later than one year and not later than five years	729,000	729,000
Later than five years	<u>1,503,563</u>	<u>1,685,813</u>
	<u>2,414,813</u>	<u>2,597,063</u>

#### Other

	31 March 2019	31 March 2018
Obligations under operating leases comprise:	£	£
Not later than one year	2,501	6,930
Later than one year and not later than five years	<u>3,002</u>	<u>1,735</u>
	<u>5,503</u>	<u>8,665</u>

Our building lease is due to expire in 2032.

### 12. Other financial commitments

The future minimum payments under the TPO IT contract are given below, analysed according to the period in which the payments fall due:

#### Information Technology

	31 March 2019	31 March 2018
	£	£
Not later than one year	300,180	288,989
Later than one year and not later than five years	206,910	505,731
Later than five years	-	-
	<u>507,090</u>	<u>794,721</u>

We are contractually obliged to meet payments to our IT managed service provider until December 2020.

## Notes to the accounts

Year ended 31 March 2019

### 13. Related party transactions

The Pensions Ombudsman (TPO) is a non-departmental public body of the Department for Work and Pensions (DWP). DWP is regarded as a related party.

As DWP are our Sponsor Department, grant-in-aid is received from them. The amounts received are disclosed in the Statement of changes in taxpayers' equity. We also have immaterial non-grant-in-aid transactions with DWP.

In addition, TPO has had various transactions with other government departments and central government bodies. This includes material transactions with Cabinet Office (including the Government Property Agency) in respect of the lease arrangement for 10 South Colonnade, and immaterial transactions with HMRC and the Government Internal Audit Agency (invoiced by HM Treasury).

No board member, key manager or other related parties has undertaken any material transactions with TPO during the year.

Details of remuneration for key management personnel can be found in the Remuneration and staff report within the Accountability report.

### 14. Financial instruments

It is, and has been, The Pensions 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 a nil rate of interest. We do not consider that the Ombudsman is subject to significant levels of credit risk, as the short-term liquidity, interest rate and foreign currency risks faced are slight.

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.

### 15. Contingent liabilities disclosed under IAS37

TPO has entered into a lease arrangement for office space at 10 South Colonnade. TPO may at some point in the future incur costs related to internal repairs for the space occupied by TPO, common areas, and shared public and staff facilities, as is set out in the Memorandum of Terms of Occupation. This arrangement has resulted in an unquantifiable contingent liability for TPO.

### 16. Events after the reporting date

No material events have occurred since the reporting date that have an effect on the accounts or on the users of the financial statements. The Accounting Officer authorised these financial statements for issue on the same date as the Certificate and Report of the Comptroller and Auditor General.











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