



Department
for Work &
Pensions

Tailored Review of The Pensions Ombudsman

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Contents

Foreword	3
1. Introduction	5
Recommendations	9
2. Form and Function	11
3. Relationship between DWP and TPO	22
4. Governance	24
5. Operational Effectiveness	31
6. Organisational Effectiveness	38
7. Operational Efficiency	42
8. Next Steps	47
Annex A	48

Foreword

In November 2018 I was asked to lead a Tailored Review of The Pensions Ombudsman (TPO) on behalf of the Department for Work and Pensions (DWP). TPO was last considered as part of a 2014 Triennial Review of Pension Bodies, but this is the first dedicated review of the organisation. As a result, we have looked in greater depth at the remit, governance, efficiency and effectiveness of TPO whilst drawing on other recent review work and public consultations across the broader pensions landscape.

Our review found that TPO is a well-respected and effective organisation. We heard particularly strong support across the board from all the stakeholders we consulted for the quality, clarity and impartiality of its determinations on pension disputes. It is particularly commendable that TPO has continued to speed up and improve case clearance times, whilst embracing an ambitious internal change agenda. From March 2018, this has included broadening its remit to encompass a team formerly part of The Pensions Advisory Service, which can help claimants to resolve disputes more informally at an early stage through engagement with both parties.

Over the last 18 months, TPO have successfully moved offices, introduced a bold new 'flexible working' policy, and started on the journey of redesigning its customer journey and underpinning systems to enable a digital customer experience. The current Ombudsman has also introduced a notably more outward looking and engaged stakeholder function, with huge scope and demand for this to expand. Any organisation should be very proud of landing this breadth of change, whilst improving core delivery performance and maintaining strong staff survey scores.

Since the last review TPO has grown rapidly, partly in response to broader changes in pensions policy, including the introduction of pension freedoms and Automatic Enrolment and the shift towards people saving predominantly in the Defined Contribution market. The General Levy on pension schemes which funds TPO and related bodies is also currently under consideration to address funding pressures. As with any review of this nature, we identified areas for improvement and the recommendations of this report highlight those areas. These include:

- Developing the governance and performance framework for the organisation to reflect the increasing size, complexity and maturity of its work;
- Ensuring that both DWP and TPO take a more robust approach to scoping and tracking efficiencies, which we would expect to yield from the investment the organisation has received in its digital infrastructure and the potential to more radically streamline case handling;
- Building on the outward facing engagement to position the organisation more strategically, working with other relevant organisations to enhance TPO's impact on raising standards more broadly in pensions administration.

The 2014 review considered and declined to pursue an earlier proposal to merge the functions of TPO with the Financial Ombudsman Service (FOS), overseen by the Financial Conduct Authority and the Treasury. Similarly, we have not recommended any fundamental changes to the functions or remit of TPO at present, as we recognise that both TPO and the sponsoring departments have other priorities for scarce legislative and Parliamentary capacity. However, we have heard a clear case for addressing the fact that there is a specific area of overlap in jurisdiction, with both TPO and FOS able to give different decisions, under different rules for cases that involve maladministration of personal pensions. We make initial proposals to build a better evidence base for considering the options to resolve this, as a matter of proper public administration and as future legislative priorities allow.

I'd like to thank the Ombudsman, TPO Executive Board and the DWP partnership team for the considerable time and effort they committed to this review, and to thank all the staff we spoke to, who were highly professional and impressive. Consistent with the transformation journey that TPO has already been on for some years, many of the recommendations are already significantly progressed and reflect work that was already underway.

Finally, I would like to thank Juliet Netting, who has ably and generously shared her expertise and conducted the majority of the work across all stages of the review and the completion of this report.

Hazel Hobbs

Lead Reviewer

1. Introduction

Aims of the Tailored Review

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

The Pensions Ombudsman (TPO) was previously part of a wider Triennial Review in 2014 which covered a number of related pensions bodies, and this review has considered the implementation of recommendations made in it.² This is the first dedicated review that TPO has undergone since the launch of the public bodies reform programme in 2010.

As with all tailored reviews, this review challenges the continuing need for the functions delivered by TPO, then examines the performance, efficiency and governance arrangements for those functions.

Overview of TPO

The Pensions Ombudsman is responsible for investigating and determining complaints and disputes about how occupational and personal pension schemes are run. Its statutory role is set out in Part X of the Pensions Schemes Act 1993³ and Part X of the Pension Schemes (Northern Ireland) Act 1993.⁴

The Pension Protection Fund Ombudsman is responsible for investigating and determining complaints and disputes concerning the Pension Protection Fund (PPF) and is also responsible for dealing with appeals against decisions made by the PPF in respect of the Financial Assistance Scheme. This statutory role is determined by sections 209 to 218 of the Pensions Act 2004.⁵

These Ombudsmen are legally two separate appointments, but are in practice held by the same person, henceforth 'the Ombudsman'. The Ombudsman is supported in its decision making role by a Deputy Ombudsman and a staff of 84 full time employees

¹ Cabinet Office, (2016), *Tailored Reviews: Guidance on Reviews of Public Bodies*, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/633573/Tailored_Review_Guidance_on_public_bodies_V1.2_July_2017.pdf

² Department for Work and Pensions, (2014), *Triennial Review of Pensions Bodies Stage 1: Options for delivery; Report by the Department for Work and Pensions on the Pensions Regulator, the Pensions Ombudsman, the Pension Protection Fund Ombudsman and the Pensions Advisory Service*, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/270135/triennial-review-pensions-bodies-stage1-delivery-options.pdf

³ Pensions Schemes Act 1993, <http://www.legislation.gov.uk/ukpga/1993/48/contents/enacted>

⁴ Pension Schemes (Northern Ireland) Act 1993, <https://www.legislation.gov.uk/ukpga/1993/49/contents>

⁵ Pensions Act 2004, <http://www.legislation.gov.uk/ukpga/2004/35/contents>

(FTE), forming an organisation which as a whole is referred to as 'The Pensions Ombudsman' (TPO). References to TPO mean the Pensions Ombudsman's office, adjudicators and volunteers who investigate and determine complaints and disputes concerning occupational and personal pension schemes.

TPO is funded by grant-in-aid paid by the Department for Work and Pensions (DWP), which is recovered from the General Levy charged on pension schemes in the United Kingdom.⁶

Since the previous wider review in 2014, TPO's caseload and workforce has grown substantially (Fig.1).

Fig. 1:



Overall TPO's headcount has increased from 40.3 FTE in 2014-15, to 84 in 2018-19. TPO's net expenditure has also increased from £3.29m in 2014-15 to £6.04m in 2018-19.

This has been driven by:

- An increasing public knowledge of pensions and increasing complexity of pensions provision (due in part to the Government's policies designed to offer greater freedom and flexibility for people in managing their pension assets throughout their working life and into retirement);
- Additional resources agreed by DWP to address a backlog of cases over the past two years, successfully clearing 600 of these in 2017-18; and

⁶ DWP funds TPO, The Pensions Regulator (TPR) and the Money and Pensions Service through Grant-in-Aid, which is all (in relation to TPO) or partially recovered through the General Levy on pension schemes in the United Kingdom. The levy is collected on DWP's behalf by TPR.

- A change to TPO's remit agreed following the previous review.

In March 2018, TPO took on The Pensions Advisory Service's (TPAS) dispute resolution work in order to simplify the customer journey. This brought into TPO a team handling early stage pension dispute resolution, involving signposting or assisting customers to navigate their scheme's complaints arrangements, plus over 200 expert volunteers who had worked on the service at TPAS. In 2018/19, 49% of TPO's cases were resolved by this new Early Resolution Team.

Over previous years, TPO had in any case moved to resolve more cases without a formal Ombudsman's determination, albeit at a later stage in the complaints journey, usually through getting both parties to agree to an Adjudicator's opinion. In both 2017/18 and 2018/19, around 70% of TPO's cases were resolved informally, without proceeding to a binding determination by an Ombudsman, a trend that we heard is consistent with other Ombudsman services.⁷

The pensions landscape is constantly changing, and the review team heard from many contributors that the wider market and regulatory framework will continue to affect TPO's remit and caseload in the long term. In recent decades there has been a shift in the balance between Defined Benefit and Defined Contribution schemes, with a larger proportion of employees now saving in workplace pensions in Defined Contribution schemes than ever before.⁸ Pension freedoms were introduced in 2015, leading to an increase in complexity of many individuals' pension entitlements, as more people transfer accumulated pots between pension schemes. The introduction of Automatic Enrolment following the 2008 Pensions Act, which requires all employers to enrol workers with earnings above a set level into a work-place pension, has also generated a large increase in workplace pensions, with the impact of this likely to be felt on TPO's workload over future decades.

In the wider landscape, TPAS was merged with the Money Advice Service and Pension Wise in January 2019 to create the Money and Pensions Service (MAPS). This new body will continue to issue information and guidance regarding pensions, but all complaints and dispute resolution work rests with TPO.

⁷ Pensions Ombudsman and Pensions Protection Fund Ombudsman, (2018), *Annual Report and Accounts 2017/18*, <https://www.pensions-ombudsman.org.uk/wp-content/uploads/TPO-AR-2018-FINAL-ONLINE.pdf>

⁸ In 1998 9.3% of employees in the UK were in an Occupational Defined Contribution Scheme and 45.7% were in an Occupational Defined Benefit Scheme. In 2018 25.9% of employees were in an Occupational Defined Contribution Scheme and 27.8% were in an Occupational Defined Benefit Scheme.

Office for National Statistics, (12 April, 2019), *Employee workplace pensions in the UK: 2018 provisional and 2017 revised results*,

<https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/workplacepensions/bulletins/annualsurveyofhoursandearningspensionables/2018provisionaland2017revisedresults#workplace-pension-scheme-membership>

Process

The review was led by Hazel Hobbs, supported by a small dedicated review team, independent of the policy sponsor team and TPO. The review was conducted between January and April 2019. Evidence was collected from written materials supplied by TPO and the DWP's ALB Partnership team as well as one-to-one interviews conducted with TPO Board members, managers and employees, and civil servants from the DWP's Private Pensions and ALB Partnership division. Members of the team also visited operational teams, attended a Board meeting and a wider stakeholder event.

While an official consultation was not issued, in line with the principle of proportionality applied to all tailored reviews, the views of a range of stakeholders from other public bodies and pension schemes were sought through interviews. The review team also took into account a number of written submissions that were received in relation to other relevant public consultation exercises, including on proposed legislative measures being considered by DWP. The review team have consulted regularly with TPO throughout the review process.

Recommendations

The review makes the following recommendations:

Form and Function

1. TPO should continue building its relationship with the Financial Ombudsman Service (FOS), and develop a collaborative process to reduce the potential for customer confusion and duplication of efforts.
2. The TPO senior leadership team should work with FOS to commission a transparent and regular feed of case data to both boards to assist DWP and HMT policy consideration of whether any further action is to reduce the scope for jurisdictional overlaps and gaps.

Relationship with DWP

3. DWP should provide greater support and challenge to TPO, and be properly resourced in order to achieve this.

Governance

4. DWP should work with the Ombudsman to evolve a full Board structure in line with Cabinet Office principles for effective and proportionate governance. As a first step, we recommend the immediate and open recruitment by DWP of two Non-Executive Directors, one of whom should act as Lead Non-Executive Director.
5. To support effective succession planning, DWP should support TPO to second in or recruit an experienced operational manager as Chief Operating Officer.
6. TPO should improve the quality and transparency of the management information provided to support Board decision-making and Audit Committee scrutiny, including on risk management.
7. TPO should agree a timetable and resourcing to fully refresh the information and tools available on its website, utilising DWP advice and if required external expertise on content design and user testing.

Operational Effectiveness

8. TPO should refresh their key performance indicators (KPIs) to reflect their expanded remit and customer service commitments.
9. TPO should work to clarify externally what cases are appropriate for resolution by the Early Resolution Team, and provide assurance that Early Resolution cases are handled independently from other sections of the organisation.

10. The review team concur with previous reviews that the transfer of an expert volunteer resource from TPAS is a major asset and endorse TPO's commitment to better utilise this. TPO should create a volunteer strategy to clearly articulate how volunteers are utilised and how the associated risks and opportunities will be managed.
11. TPO should continue its positive journey to expand stakeholder liaison and to become a more influential player in raising standards across the pensions industry.
12. TPO should seek and publish much more regular feedback from its customers, and ensure customer and stakeholder feedback is considered and acted on at Board level.

Organisational Effectiveness

13. DWP should work with TPO and the Cabinet Office Public Bodies team to review and share with other public sector organisations the lessons from TPO's forward-thinking approach on flexible working.
14. TPO should introduce a People Strategy with clear priorities for positive promotion of diversity and inclusion and investment in learning and development.

Operational Efficiency

15. Given the requirement to review and increase charges to sustain the growing demand for Levy-funded services, DWP should set clearer expectations in 2019-20 and as part of a future Spending Review on areas for efficiency and continuous performance improvement. TPO should work to find and track efficiencies in their processes to meet these expectations.
16. To provide assurance to DWP and the TPO Board that investment in a new Customer Management System and a redesigned customer journey will yield both an improved customer journey and efficiencies, TPO should set much more ambitious plans for tracking and reducing unit costs, and better anticipating and managing demand fluctuations.

2. Form and Function

Are the functions of TPO still needed?

This chapter considers whether all the functions fulfilled by The Pensions Ombudsman (TPO) remain essential, and if they are, what the most appropriate delivery model is for the next few years. The stakeholders to whom the review team spoke were unanimous about the ongoing requirement for a free and impartial service for the resolution of pensions complaints. Pensions law and scheme rules are complex, and disputes can involve large sums of money. This means that independent expertise is necessary and valued by all parties, to ensure fair resolution to occupational and personal pension complaints.

Due to the evolution of pensions policy and the various responsibilities for regulation which sit with DWP and with HMT, previous reviews have considered the overlaps in jurisdiction between TPO and the Financial Ombudsman Service (FOS), which potentially result in duplication of work across the industry. However, aspects of TPO's remit are not covered by any other body, and these functions all remain necessary to protect consumers. We consider in more detail (pg.15ff.) the issues arising and options for resolution of the current overlapping responsibilities.

TPO forms one stage in a longer journey for customers with pension complaints. Customers are expected to go to their scheme provider with any complaint, and progress through the scheme's internal complaints procedure. The complaints processes and timescales vary between occupational and private schemes, depending on factors including the complexity of the case and whether the provider is regulated by the Financial Conduct Authority (FCA).

TPO can help solve a pension complaint in three ways. Firstly, it can aid members of the public to navigate their scheme's complaints processes, and, where appropriate, facilitate a solution before the complaint goes through a scheme's internal complaint procedure (often called Internal Dispute Resolution Procedure, or IDRP). TPO only took on this function, previously conducted by TPAS, in March 2018. This was a major change in TPO's functions, and the legislation to formalise this is not yet in place.⁹ In light of this, TPO will need to reflect on its processes to ensure there is clarity and transparency on how pre-IDRP cases are taken on and investigated. The pension scheme providers we spoke to noted the importance of ensuring that internal complaints processes are efficient and provide the first port of call (except in

⁹ DWP consulted on changing the legislation to formalise TPO's adoption of this function in December 2018. Department for Work and Pensions, (2019), *Government response: The Pensions Ombudsman: dispute resolution provisions and widening of jurisdiction*, <https://www.gov.uk/government/consultations/the-pensions-ombudsman-dispute-resolution-and-jurisdiction>

exceptional circumstances) in order to ensure provider accountability and learning for putting things right.

Secondly, TPO can resolve a complaint informally that has gone through IDR. This means that an adjudicator is able to resolve the matter by a simple intervention, or issue an opinion which is agreed by the parties, but an Ombudsman does not issue a legally binding determination. In 2018-19, around 70% of TPO's completed investigations were completed by informal routes.¹⁰

Thirdly, TPO can resolve a dispute formally, with a determination made by the Ombudsman or the Deputy Ombudsman. The Ombudsman's determinations are legally binding and enforceable in court. They can only be challenged by an appeal to the court on a point of law.

TPO also handles complaints and appeals concerning the Pension Protection Fund (PPF), and any appeals against decisions made by the PPF in respect of the Financial Assistance Scheme. This function forms a small part of TPO's overall work, but continues to be necessary. The PPF essentially acts as a pension provider for many people whose original pension scheme has collapsed, and therefore TPO provides the same access to justice for its recipients as it does for members of other pension schemes.

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

By protecting consumers of private and occupational pensions, TPO clearly supports DWP's objective to "ensure financial security for current and future pensioners by: helping people to increase their pension savings; providing information on their private and state pension provision to enable effective planning for the future; and supporting older people to extend their working lives."¹¹

Is TPO's current form the most appropriate for its functions?

There are three 'tests' which must be considered when establishing an Arm's Length Body and the review team have concluded that TPO continues to meet all three:

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

Yes. Technical expertise is required to understand and make determinations based on pensions law and pension scheme rules.

¹⁰ Pensions Ombudsman and Pensions Protection Fund Ombudsman, (2018), *Annual Report and Accounts 2017/18*.

¹¹ Department for Work and Pensions, (2018), *Single Departmental Plan*, <https://www.gov.uk/government/publications/department-for-work-and-pensions-single-departmental-plan/department-for-work-and-pensions-single-departmental-plan-2018>

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

Yes. TPO makes legally binding determinations, and this quasi-judicial function means that political impartiality is vital for the organisation to be seen as credible and fair. Such impartiality is expected best practice for Ombudsmen.

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

Yes. Collecting evidence for resolving individual cases, including disputes against public service schemes, must be delivered independently of Ministers to ensure the credibility of TPO.

Public body classification

TPO is classified as a Tribunal Non-Departmental Public Body (NDPB). Cabinet Office's guidance on classification was revised in 2016. Tribunal NDPB is no longer a category for newly formed public bodies. The revised Cabinet Office taxonomy includes three principal categories of ALB: Executive Agencies, NDPBs (NDPBs and NDPBs with advisory functions), Non Ministerial Departments.^[1]

TPO cannot be an Executive Agency, as these sit within departments and therefore do not have the level of legal separation required for TPO's functions. A Non Ministerial Department is not appropriate for TPO's functions.

TPO does not fit neatly into the category of Executive NDPB, as although its work now involves handling many cases without an Ombudsman determination, the tribunal function remains.

According to Cabinet Office guidance, existing Tribunal NDPB bodies may retain their tribunal NDPB status. This review has concluded that TPO continues to perform tribunal functions, and therefore this classification is appropriate.

Alternative Delivery Models

Consideration has previously taken place over whether TPO should be transferred to HM Courts and Tribunals Service (HMCTS). It was decided at that time that TPO's delivery model was incompatible with the HMCTS model. TPO's delivery model hasn't changed since the discussions took place, and the review has therefore not considered this option.

The review team considered a range of alternative delivery and funding models, but focused primarily on the potential for a merger with a similar body. There are currently areas of overlapping jurisdiction between TPO and FOS (discussed further p.15ff.) An independent review in 2007 (the Thornton Review¹²) suggested that the functions of the two bodies should be merged in order to "provide the advantages that a large organisation brings in terms of resource, flexibility and economies". Ministers at the

¹² Paul Thornton, (2007), *A Review of Pensions Institutions; An independent report to the Department for Work and Pensions.*

time considered the merits and implications of a merger before concluding that it would not produce enough cost savings to offset the disruption to the bodies, as well as the resource that would be spent aligning the two bodies' differing approaches to determining complaints. The 2014 Triennial Review again examined the idea in detail, but concluded that a merger of the two bodies would cause "considerable disruption to no real purpose".¹³ In more recent public debate, some stakeholders also continue to raise the question of whether a merger would be sensible.¹⁴

This review has found that there is not a strong case to merge TPO and FOS at the present time. We have not conducted a cost benefit analysis, but agree with the conclusion of the 2014 review that a merger would be possible to establish a single centre of pensions expertise within the FOS, or alternatively to bring all pensions work into TPO. However, without changes to the underlying regulatory framework this would cause inevitable operational risk and realise limited savings, at least without addressing the underlying differences in the legal framework and ownership of regulatory responsibilities. The Pensions Regulator (TPR) remains separate from the Financial Conduct Authority due to the differences between the type of pensions they regulate, although the two bodies do work closely together.¹⁵ Therefore, at the present time we consider it logical for TPO to remain in the same space as TPR, focused on complaints concerning occupational and personal pensions, and accountable to DWP.

Nevertheless, a number of stakeholders noted it was anomalous to have two organisations determining cases - under differing rules - that involve personal pension scheme maladministration. It is worth noting that in the very long term, there may continue to be changes in the scope of pension schemes, as policies such as Automatic Enrolment, and Master Trust authorisation affect the number of members in occupational schemes. This could eventually impact upon TPO's workload, though at present projections for how the market will be affected are not available. We suggest that the overarching regulatory position and whether ultimately FOS and TPO work is brought together should be kept in view in scoping future tailored reviews.

The next review should consider this more fully when the new Money and Pensions Service has become embedded in the customer journey, and when the two organisations and their sponsoring departments having built a more evidence-based case on the customer experience. The previous Triennial Review recommended that DWP review the entire dispute resolution journey for customers, but the review team are unclear on what picture of the journey this produced. We would like to have seen a more detailed picture of referral routes, case outcomes, unit costs and customer

¹³ Department for Work and Pensions, (2014), *Triennial Review of Pensions Bodies Stage 1: Options for delivery; Report by the Department for Work and Pensions on the Pensions Regulator, the Pensions Ombudsman, the Pension Protection Fund Ombudsman and the Pensions Advisory Service*

¹⁴ Department for Work and Pensions, (2019), *Government response: The Pensions Ombudsman: dispute resolution provisions and widening of jurisdiction.*

¹⁵ Department for Work and Pensions, (2019), *Tailored Review of The Pensions Regulator*, <https://www.gov.uk/government/publications/the-pensions-regulator-tailored-review>

feedback than was available to us from TPO or DWP. Due to the changes in this area since the last review, this area should be reconsidered by DWP in future policy work. Alternatively, there may be an opportunity to consider more widely the broader role of Ombudsmen services, led by Cabinet Office.

Any changes would also require a full consultation of industry, legal and user representatives (See rec.13). In our view, the driving force in evaluating options for a merger or reallocation of responsibilities between the organisations should be delivering a clear and consistent approach to dispute resolution for customers. Clearly the Board and management overheads could be reduced in a merger, though such a move would require a review and reconciliation of how funding operates in this arena.

How does TPO work with other government departments and ALBs?

The Pensions Regulator

TPO works with TPR to share information about pension complaints and wider issues in the industry. In March 2018, TPO and TPR signed an Information Sharing Agreement to improve their coordination in this area.¹⁶ The relationship between TPO and TPR is growing stronger, as they begin to coordinate on some communications such as newsletters.

There is room to strengthen this relationship further with more joint working, for example on research and evidence, allowing both organisations to perform more effectively. TPO could share more of its insight into the causes of pension complaints with TPR, allowing the two bodies to work together to expand good practice guidance to schemes and trustees. Other good examples put to the review team, included establishing joint task forces where a speedy cross-agency response is needed to deal with large groups of complaints, or to respond effectively to spurious campaigns or scams. This extends more widely, in working with other public bodies or consumer protection campaigns, including with the Financial Conduct Authority.

Pensions Guidance

TPO has always had a working relationship with The Pensions Advisory Service (TPAS), with the two organisations frequently referring customers to each other; for instance, when calling TPO, customers can choose to be immediately redirected to TPAS if they are only seeking guidance about a pension.

TPAS, along with Pension Wise and the Money Advice Service, was merged into the Money and Pensions Service (MAPS) in January 2019. TPO intends to grow its relationship with the new organisation, and this goal is stated in the 2018-2021 Corporate Plan.¹⁷ MAPS plays a key role in signposting customers to TPO. It will benefit from engagement with TPO and FOS, to ensure clarity on its staff triage

¹⁶ <https://www.pensions-ombudsman.org.uk/2018/05/new-information-sharing-agreement-between-the-pensions-ombudsman-and-the-pensions-regulator/>

¹⁷ The Pensions Ombudsman, (2018), *Corporate Plan 2018-2021*, <https://www.pensions-ombudsman.org.uk/wp-content/uploads/Corporate-Plan-2018-2021.pdf>

processes for referral to each organisation and customer guidance following its recent listening exercise (discussed below).

As with other pensions bodies, TPO could continue to strengthen its relationships by sharing its data and experience. TPO is in a good position to more systematically use its insight into pension complaints to work with other key stakeholders to improve the customer journey in pensions as a whole. An example of where TPO has effectively done this is its work to encourage trusts to simplify their dispute resolution processes. The organisations we spoke to would also encourage TPO to participate more visibly in shaping wider pensions policy, for example in pooling insight on how well people understand and trust their pensions, establishing good practice in scheme internal dispute resolution and the scope for improving the supply and quality of independent pensions advice.

TPO and the Financial Ombudsman Service (FOS)

Jurisdiction

As noted earlier, TPO's remit overlaps with that of FOS. This is partly due to the relationship between pensions and investments, which are FCA regulated and therefore fall under FOS's jurisdiction. The overlap between the two organisations is largely however a result of independent development of their remits, and does not aid clarity or consistency for either the public or scheme administrators.

TPO deals with matters which concern the administration (including transfers/conversion) and/or management of occupational and personal pension schemes. FOS deals with matters which predominantly concern advice in respect of the sale or marketing of individual pension arrangements. However, FOS can also consider complaints about the administration of personal pensions and group personal pensions (but not complaints about the administration of occupational schemes).

This means that both ombudsmen can determine complaints about the administration of personal pensions and group personal pensions. The scale of the overlap is relatively small, particularly from the viewpoint of FOS as a much larger organisation: Pensions products made up only 4% - or 7,449 complaints - of the 388,392 new complaints FOS handled in 2018/19, and only a subset of these concern maladministration rather than advice. The volume of cases transferred between the organisations is also relatively small (see Fig. 2). However, the review team found that the overlapping jurisdiction had the potential to cause issues for customers and pension schemes:

1. Customer confusion

The review team noted that there was a lack of consistent routing and guidance for customers with pension complaints across scheme letters, government and Ombudsman websites, and other potential sources of referral. We were told that the majority of pension scheme members have little idea that there is an Ombudsman to help them with a complaint, let alone that there are two, and

they therefore rely on pension providers and public bodies to guide them. Customers do sometimes come to the ‘wrong’ organisation: between April 2018 and January 2019, TPO redirected a small number of cases (108) to FOS at the point the customer initially made contact with them. In an already complex world of pensions, the aim should be to simplify the customer journey and make it as easy as possible for consumers to seek a resolution to their complaints.

It must be noted that TPO and FOS did not report receiving recent complaints from customers or schemes about the overlapping jurisdictions, and therefore the felt impact of this issue on customers is largely unknown. If it was a major issue, we would have expected to see complaints, including to MPs.

2. Differing conclusions for the same case

TPO and FOS may reasonably reach different conclusions on the same case. This is due to the difference in the underlying legislative frameworks: TPO decides complaints on the basis of what a court would decide, whereas FOS makes determinations based on what is considered ‘fair and reasonable’ taking into account relevant law and regulations; regulators rules, guidance and standards, codes of practice and (where appropriate) what the ombudsman considers to have been good industry practice at the relevant time. Once a complaint has been decided through one organisation, it cannot then be determined by the other.

This scale of this issue is currently difficult to ascertain, due to a lack of comparable data on TPO and FOS cases. We noted that one of the potential sources of differential outcomes was partly being addressed by the increase in FOS’s award limit from £150,000 to £350,000 for complaints about actions after 1 April 2019 (TPO has no financial limit on the value it can award).¹⁸ However, the fact that a case could get a different answer depending on where a complainant is first directed is not satisfactory, and could become increasingly unsustainable given the increased ability of consumers to compare their experiences through social media.

The review team were concerned to hear that a knowledgeable customer, who was able to find out what organisation would be more likely to determine in their favour – or give a larger award – is at an advantage over less savvy customers. Likewise, well-resourced pension schemes are also able to use the overlapping remits to their advantage, signposting customers to the organisation they think more likely to rule in their favour. This undermines fair and equal access for citizens to obtain justice.

3. Duplication of efforts

¹⁸ Financial Conduct Authority, (8th March, 2019), *FCA confirms increase in Financial Ombudsman Service award limit*, <https://www.fca.org.uk/news/press-releases/fca-confirms-increase-financial-ombudsman-service-award-limit>

A third issue is duplication of resource. Some cases are sent to both organisations, with investigations begun at both FOS and TPO before the dual effort is realised. We were told that other cases are begun at one organisation before it is decided that it would be better handled by the other. For example, in 2018/19 TPO transferred 36 cases to FOS at the 'Pathway' stage where initial work on the case begins. While cases are transferred with the information already collected, this causes delays in resolving the case and duplication as a new adjudicator begins work on the case. This is inefficient for both organisations and defending parties, particularly at a time of increased pressure on the scope and rates of levy funding (see rec. 16), and may lead to customers waiting longer than necessary for a decision.

Memorandum of Understanding

The overlapping remits of TPO and FOS have been described by a Memorandum of Understanding (MoU), outlining how TPO and FOS would distribute cases that could legally be seen by both organisations. At the time of the last Triennial Review, FOS chose to pass all cases that concerned the administration of personal pension schemes over to TPO. This was an operational division of responsibilities between the two organisations, based on agreement.

In 2015, FOS changed its policy towards pensions cases and began retaining all cases that fall within its remit, including those concerning the administration of personal pensions. We were advised that this decision was taken following concerns expressed by consumers about being transferred between ombudsman services. In response to these concerns, FOS reviewed its processes for transferring complaints to other bodies, without consultation with TPO. Having reviewed its procedures, FOS considered that it was obliged to determine all cases that were within its jurisdiction, and pass to TPO, with the consumer's consent, only those that were outside its rules, or where it would clearly be beneficial for the customer to have their case handled by TPO. This significantly reduced the number of cases being transferred from FOS to TPO (Fig. 2), but smooths the journey for customers whose cases no longer have to go through the extra step of being transferred to another organisation. It has not, however, affected the smaller number of cases TPO transfers to FOS.

This change was reflected in the updated 2017 MoU, which acknowledged the overlapping jurisdictions and states that "if...the complaint is more suitable to be dealt with by the other ombudsman, the first ombudsman will transfer the complaint to the other ombudsman".¹⁹ It also states that "FOS and TPO will take reasonable steps to cooperate with each other." The current MoU reflects the legislation that governs both bodies, and the review team found that it appears effective in facilitating the transfer of cases between the organisations. However, we were not in the scope of this review able to consider in detail the nature of the types of cases considered by FOS or TPO,

¹⁹ The Pensions Ombudsman, (2017), *Memorandum of Understanding between The Pensions Ombudsman and The Financial Ombudsman*, <https://www.pensions-ombudsman.org.uk/wp-content/uploads/FOS-and-TPO-MoU-signed-copy-2017.pdf>

why cases were/were not transferred and the extent to which investigation or decision-making processes differ in practical terms.

We heard evidence that both parties recognise that relationships at Board level could be improved. Working level relationships appear effective. In our view, there is scope to enhance the impact of both organisations to the advantage of all stakeholders and customers. We consider that the effects on customers of the jurisdictional overlap can be largely mitigated by operational goodwill on how cases best be allocated and shared intelligence on the outcomes. We recommend a renewed effort to strengthen relationships between the Ombudsman bodies at senior level, to share operational insight and inform future policy, given the commonalities of purpose in protecting consumers and business models.

Fig. 2

Cases referred (average per week)		
	FOS to TPAS/TPO	TPO to FOS
2012/13	18.3	1.6
2013/14	20.2	1.6
2014/15	21.0	1.5
2015/16	24.1	1.8
2016/17	11.8	1.1
2017/18	7.0	<1
2018/19	8.1 (to Mar. 2019)	3.0 (to Jan. 2019)

Collaborative Working

The issues in the customer journey will not be entirely solved without legislation, as some confusion will remain among firms and customers about where to direct pension complaints, and transfers between Ombudsmen require customer consent. Also, some complaints involve both the advice given by a regulated Independent Financial Advisor and subsequent maladministration by persons responsible for the management of a scheme, requiring input and potentially a decision from both bodies. Given the current scarcity of parliamentary capacity and relatively small number of cases, this review has not found a compelling case to address the legislative position *in the short term*, but rather to focus on operational effectiveness and joint working. The guiding principle should be consideration of what is in the best interest of users, particularly ensuring timely and equitable public access to remedies and giving clear guidance to providers to enable them to learn and improve.

TPO should continue building its relationship with FOS, and work to develop a collaborative process to reduce the potential for customer confusion and duplication of efforts. This might include:

- Joint engagement with MAPS and the pensions industry to ensure clarity on where customers should be directed, limiting the potential for customers to be transferred between organisations.
- Confirmation of named contact arrangements to discuss specific cases where the complainant may benefit from having their case considered in one or other organisation, or to ascertain and share the facts on cases that require both Ombudsman to either mediate or reach a formal determination.
- Commitment to joint working with stakeholders and providers to promote understanding of the MOU, minimise misdirection of customers and to disseminate feedback and learning from cases designed to raise standards. Examples of such working include joint seminars, press articles and stakeholder engagement events.

Recommendation 1: TPO should continue building its relationship with FOS, and develop a collaborative process to reduce the potential for customer confusion and duplication of efforts.

Future Policy: Evidence Gathering

At present, neither of the sponsoring departments advocate revisiting the underlying policy framework, given other organisational priorities. The way the remits interact with various pension services is complex, and a full understanding of all of the elements involved would take more time and resource than appropriate for this review.²⁰ However we believe that a legislative solution is required *in the longer term*, to remove the unnecessary duplication of remits. We found that none of the accountable bodies have a clear view of the outcomes of cases that fall into the overlapping jurisdictions, or of the impact of potential gaps in coverage. FOS collects data about the number of cases on average referred to both TPAS (now MAPS) and TPO, but not the type of case which is transferred, and TPO's data also lacks systematic detail on relevant case outcomes and levels of award.

Consequently, this review recommends that the TPO leadership team should work with FOS to jointly commission a transparent feed of baseline data, in order to build the evidence base required for DWP and HMT policy teams to consider the organisations' future remits. We recognise this will not demonstrate whether different outcomes are being reached on similar cases, at least without more detailed sampling work, but it would indicate the areas worthy of potential policy investigation. In our view, this would require TPO and FOS to gather and share regular data on cases

²⁰ It is also worth reiterating that the review team did not look in detail at the processes or data systems at FOS, as this review is focussed on TPO.

which could reasonably fall under the remit of both organisations. Subject to feasibility, this would ideally include:

- The type of complaint and outcome of pension cases (including SIPPS) resolved by each organisation.
- Award data, including the amounts allocated for financial loss, and for the injustice caused by distress or inconvenience.
- The timescales for resolution of cases, through both formal and informal routes.
- The reason categories for transferring specific cases.
- An update on ongoing legal cases with potential implications for both TPO and FOS decision-making.

Recommendation 2: The TPO senior leadership team should work with FOS to commission a transparent and regular feed of case data to both boards to assist DWP and HMT policy consideration of whether any further action is to reduce the scope for jurisdictional overlaps and gaps.

Devolution

TPO serves the whole of the United Kingdom. This means that some cases, particularly appeals, will require knowledge of the legal systems of the devolved countries. TPO ensures the quality of its adjudications in these instances by having members of its legal team assist adjudicators when devolved legal systems or cross border cases are involved in a complaint. The review team did not identify any significant issues of interest or concern in this area.

The UK's Exit from the European Union

The UK's Exit from the European Union will have little impact on TPO. The only risk that has been noted is that data sharing with the Republic of Ireland Pensions Ombudsman will cease with the UK's Exit from the European Union, a potential issue due to the prevalence of cross-border schemes between the UK and Republic of Ireland. The Department is aware of this risk and is introducing the required legislation to mitigate it.

3. Relationship between DWP and TPO

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

Roles and Responsibilities

Throughout the review, we observed good evidence of partnership working between TPO and DWP, but, as with any review of this nature, we also identified some opportunities for improvement. The relationship between TPO and the Department, including roles and responsibilities, is set out in a published Framework Document.²¹ The Department's Permanent Secretary is the Principal Accounting Officer for TPO and has designated the Ombudsman as Accounting Officer. The Permanent Secretary is accountable for TPO's expenditure, performance and risk management, advised by the TPO Accounting Officer. The DWP ALB Partnership Division is responsible for oversight on behalf of Ministers and the Permanent Secretary, with dedicated partners overseeing TPO and leading on its policy.

Engagement between DWP and the Department

In addition to close working relationships between the Partnership team and TPO, we also noted regular Ministerial engagement, with meetings between the Ombudsman and the Minister for Pensions and Financial Inclusion taking place as needed. The Department utilises the guidelines set out in the Cabinet Office's 'Partnerships with arm's length bodies: code of good practice' when reviewing the partnership arrangements between the two organisations.²² The Secretary of State, supported by the DWP's Public Appointments team, is responsible for the appointment of the Pensions Ombudsman and the Deputy Pensions Ombudsman.

TPO discusses its Corporate Plan with the Department each year before sharing it with the Minister for Pensions and Financial Inclusion. TPO executives and Departmental partners meet for Quarterly Accountability Reviews, which consider TPO's performance against agreed objectives, funding and risks. The Department also conducts an Annual Assurance Assessment for each of its Arm's Length Bodies. In

²¹ Department for Work and Pensions & The Pensions Ombudsman and Pension Protection Fund Ombudsman, (2014), *Framework Document Between The Pensions Ombudsman and Pension Protection Ombudsman & The Department for Work and Pensions*, <https://www.pensions-ombudsman.org.uk/wp-content/uploads/Framework-Documents-2014-FINAL-.pdf>

²² Cabinet Office, (2017), *Partnerships with arm's length bodies: code of good practice*, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/594345/Partnerships_between_departments_and_arm_s_length_bodies-code_of_good_practice.pdf

2018 this concluded that TPO is successful in its core functions and is overall a 'low' risk to the Department. Members of the Department attend meetings of TPO's Audit and Risk Assurance Committee as observers, and regular meetings between members of each organisation also take place. Aggregate ALB risks are also reported into the Departmental Audit and Risk Committee on a periodic basis.

DWP's Partnership team provide policy support for TPO, working with TPO to ensure its underpinning legislation is appropriate. While TPO works effectively with the team, it has been noted that TPO feeds back relatively little information about the type of complaints they see to DWP. This information could be valuable in the creation of pensions policy, and TPO could usefully share more of this kind of aggregate information to DWP.

DWP's Partnership Team and Finance Business Partners oversee TPO's spending, issuing budget allocation and Delegated Authority letters, monitoring compliance with the Controls, and ensuring efficient use of public money. The review team noted that oversight of TPO's finances could be strengthened by updating the Delegated Authority letter and seeking more regular assurance that TPO is fully compliant with all aspects of 'Managing Public Money'.²³

DWP houses a significant amount of knowledge and experience in various aspects of running an organisation, and in our view TPO would benefit from leveraging more of this expertise. For example, as TPO looks to redesign its website and consult stakeholders on the next stage of its digital transformation, it might draw upon DWP digital and commercial teams to ensure the project is cost efficient, user-centred and of high quality.

Although TPO is one of the Department's smallest Arms-Length Bodies, this should not mean that TPO needs the least resource committed to it: arguably smaller bodies have less ability to perform in-house some functions or to procure them efficiently, for example the full range of HR services. Therefore, DWP should provide greater support and challenge to TPO, and be properly resourced in order to achieve this.

Recommendation 3: DWP should provide greater support and challenge to TPO, and be properly resourced in order to achieve this.

²³ HM Treasury, (2013), *Managing Public Money*, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/742188/Managing_Public_Money_MPM_2018.pdf

4. Governance

Strong corporate governance is essential to the operational freedom and effectiveness of all public bodies. This chapter considers whether TPO is governed effectively and in compliance with the principles²⁴ of the ‘Government Code of Good Practice on Corporate Governance’²⁵ and those set out in ‘Managing Public Money’.²⁶ Overall we found some areas of organisational inexperience or where stronger oversight would have provided better assurance to the Ombudsman and Board. Our principle conclusion is that, whilst the current Ombudsman has made substantial inroads towards professionalising the governance of TPO during his tenure, the organisation now needs to evolve its governance to reflect its growing size and ensure more effective challenge.

TPO Executive Board Composition

The TPO Executive Board consists of the Pensions Ombudsman, a Casework Director, a Legal Director, and a Business Director. A Non-Executive Director also attends, but is not remunerated for this role. The Executive Board is responsible for setting strategy, initiating policies, and monitoring performance against the corporate plan.²⁷ The Board meets monthly, chaired by the Pensions Ombudsman. The day-to-day running of TPO is delegated to the operational managers. The Executive Board and the operational managers meet quarterly.

The review recommends that TPO reconsider with DWP how they can best follow the principles of the ‘Government Code of Good Practice on Corporate Governance’, as some of these principles better apply to the Executive Team of an organisation of this size. For example, the Board should support and challenge the Executive Team to set appropriate direction, identify and manage key risks, and safeguard the long term health and capability of the organisation.

Non-Executive Directors

TPO has more than doubled in size in the past five years, and we consider that the governance arrangements need to evolve to provide stronger checks and balances. The current Non-Executive Director role is intended to support and challenge the Executive Board on performance, governance arrangements, strategic direction, and

²⁴ TPO was considered against the governance expectations for an Executive NDPB, as there is no current guidance available for Tribunal NDPBs.

²⁵ HM Treasury & Cabinet Office, (2017), *Corporate governance in central government departments: code of good practice*, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/609903/PU2077_code_of_practice_2017.pdf

²⁶ HM Treasury, (2013), *Managing Public Money*.

²⁷ Fully set out pg. 53, Pensions Ombudsman and Pensions Protection Fund Ombudsman, (2018), *Annual Report and Accounts 2017/18*.

effectiveness of key business policies.²⁸ While this has been highly valuable, the role is not a formal one established by open recruitment, but rather is a ‘critical friend’ appointment from The Pensions Regulator.

The review team concluded that TPO would benefit from increasing the number and diversity of Non-Executives on the Board. This would put TPO’s board structure more in line with comparable organisations, who have majority Non-Executive Boards.²⁹ A larger Non-Executive presence would also bring additional insight from other organisations and more challenge on organisational strategy, as opposed to the operational matters that the Directors are in touch with on a daily basis. Equally we are very mindful to ensure the costs and size of the Board are proportionate to the level of financial, reputational and operational risk presented by TPO.

The addition of a second Non-Executive Director was previously recommended by TPO’s internal board effectiveness review conducted in Summer 2018. The review team concurs, and recommends that DWP should work with the Ombudsman to evolve a full Board structure in line with Cabinet Office principles for effective and proportionate governance. As a first step, we recommend the immediate and open recruitment by DWP of two Non-Executive Directors in accordance with the Government’s Code on Public Appointments³⁰, one of whom should act as Lead Non-Executive Director. The second Non-Executive Director could also fill the role of Chair of the Audit Committee when the current incumbent steps down.

We consider that the key skills gaps include strategic horizon scanning, organisational change leadership (including digital service delivery) and risk management. A more diverse Board would rectify this, bringing in wider experience of operational management from parallel organisations or arms-length bodies, and also networks in the wider pension sector.

Recommendation 4: DWP should work with the Ombudsman to evolve a full Board structure in line with Cabinet Office principles for effective and proportionate governance. As a first step, we recommend the immediate and open recruitment by DWP of two Non-Executive Directors, one of whom should act as Lead Non-Executive Director.

Chief Operating Officer

A strengthened Board will need to review the Executive team skills required and overall structure of the senior staffing of the organisation, and work with DWP to plan for a smooth succession for the current Ombudsman when his term expires. Currently, the Ombudsman role encompasses the duties of both a CEO and an Ombudsman.

²⁸ Pg. 52, Pensions Ombudsman and Pensions Protection Fund Ombudsman, (2018), *Annual Report and Accounts 2017/18*.

²⁹ Eg. Office of the Public Guardian, The Legal Ombudsman, UK Anti-Doping Agency

³⁰ Cabinet Office, (2016), *Governance Code for Public Appointments*,

<https://www.gov.uk/government/publications/governance-code-for-public-appointments>

This makes the role require a large and varied skill set, as the Ombudsman must be able to lead the organisation as well as have the pensions expertise to make high quality determinations. The review team benchmarked the governance structures with other similar organisations and noted that other tailored reviews have recommended either maintaining or merging to achieve the combined CEO and Ombudsman role already in place at TPO.³¹ We feel that this structure is still appropriate for TPO at its current size, but note that it brings risks to the organisation in terms of succession planning.

In these other organisations the Ombudsman/CEO will usually be supported by a lead operational manager or Chief Operating Officer (COO). DWP should support TPO to second in or recruit an experienced operational manager as Chief Operating Officer. The COO would be able to accelerate the service transformation that is already underway and lead on continuous improvement in organisational efficiency and the customer experience. We also consider that the addition of a COO would free up more time for the Ombudsman, Deputy Ombudsman and wider Executive Team to expand their personal involvement in more systematic stakeholder engagement, in line with recommendation 12.

Recommendation 5: To support effective succession planning, DWP should support TPO to second in or recruit an experienced operational manager as Chief Operating Officer.

TPO Board Committees

The TPO Board has an Audit Committee that supports the Ombudsman in his role as Accounting Officer for TPO, consisting of two independent members. They are both unpaid volunteers. Our recommendations above encompass dedicated Non-Executive Director capacity to Chair the Audit Committee.

This review also considered whether a Remunerations Committee should be created, but came to the conclusion that there is no need for one due to the small size of TPO's Board. However, we do recognise and advocate greater involvement from the senior HR team at DWP to aid TPO in managing strategic challenges, or procuring quality external support or secondments as appropriate (e.g. on organisational design, lean service workflow management and building an inclusive culture).

Operational Management Group

An Operational Management Group has recently been introduced, in which managers from across the business meet weekly to track demand across the organisation and other management information. This group should be able to take on more of the day-to-day running of the organisation, freeing up Executive Board time for more strategic

³¹ Ministry of Justice, (2017), *Tailored Reviews of the Legal Services Board and Office for Legal Complaints*, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/730303/lb-olc-tailored-review-2017.pdf

discussions. At the time of our review, the remit and role of this group would benefit from being more clearly defined, and in what circumstances issues should be escalated to the Board.

How effective is TPO's Executive Board?

As noted above, TPO undertook an Executive Board Effectiveness review in 2018, conducted by the Non-Executive Director, but with a tightly defined remit. The evidence collected for our review universally commended the commitment and professionalism of the organisation and noted the considerable modernisation already introduced or set in train by the current Ombudsman. However, to improve its effectiveness, the Board will need to evolve in terms of membership, but also step up the focus on future strategy and assurance, leaving more of the day-to-day running to operational management.

The review team also concluded that the Executive Board could be more effective if the quality and presentation of board papers and data improved. Currently, the Executive Board receives management information that is limited in scope, focusing on comparing the number of cases received and handled at each stage of the complaints process to the forecasted amount. HR data is largely limited to recruitment information. We acknowledge that there is ongoing work by managers to improve the type of management information collected, and the way it is presented to the Executive Board, and that this endeavour should be aided by the introduction of the new Case Management System (CMS). Whilst we welcome the flexibility of the new system to generate much improved information, we would have liked to see clearer evidence that the Executive Board had articulated a clear specification for the performance management information it requires.

Interviewees recognised the need to improve strategic insight and business planning. An example of where such thinking could be improved is in the tracking of the Strategic Aims listed in the Corporate plan, which make up the long term strategy for TPO. Progress against these goals is presented to the Executive Board quarterly, with little discussion of how they are being accomplished or the trade-offs between resourcing priorities and business risks. The Executive Board do see risk logs and tracking of corporate goals, but this information was not particularly accessible. In our view, strategic risk forecasting, mitigations and contingencies should be more regularly discussed at the Executive Board, drawing on insight from the Audit Committee and wider stakeholder engagement. TPO has already responded to this feedback and are working closely with the DWP Risk Management team to address this.

Recommendation 6: TPO should improve the quality and transparency of the management information provided to support Board decision-making and Audit Committee scrutiny, including on risk management.

How diverse and transparent is TPO's Board?

TPO Executive Board Diversity

TPO's Executive Board currently comprises of 2 males and 3 females. None of the Board members are from Black, Asian or Minority Ethnic (BAME) backgrounds. As only one member of the Executive Board (the Pensions Ombudsman) is subject to the Department's Public Appointments process, appointment of Board members has not been scrutinised under current Civil Service Diversity and Inclusion guidelines. Future Non-Executive Directors should, however, be recruited through the Department's existing Public Appointments processes, which consider protected characteristics and appeal to the widest possible field as part of the recruitment process. TPO should consider the diversity of its leadership as part of its Diversity and Inclusion strategy (see Ch. 6).

TPO Board Remuneration

The remuneration levels for TPO's Executive Board members are set out in the Annual Report,³² and were agreed with DWP. TPO should draw on DWP and other public bodies' experience in considering its senior structure and pay bands.

TPO has only two independent members in its Board structure, one Non-Executive Director and one Chair of the Audit Committee. Both of these roles are currently filled by non-remunerated volunteers. The appropriate remuneration for newly appointed Non-Executive Directors will need to be agreed by DWP, but our recommendation is that an annual fee is appropriate to bring in the right skills and to ensure sufficient capacity to provide more hands-on challenge and guidance.

Transparency

We found a strong public service ethos, and received well-informed and constructive ideas from all our interviews and observations at TPO. However, we consider there is considerable scope to improve transparency of how TPO is run. We focused on the website as the primary point of access for such information, with an average of 22.3 thousand visits per month in April-December 2018. It scores well on the surveys completed by website users, though stakeholders reflected dissatisfaction with it. Most of TPO's customers are directed to the service by their pension scheme or other pension bodies.

TPO currently publishes relatively limited information about the way it operates. The website does not meet Cabinet Office standards for giving a transparent and accessible account of the organisation's work and achievements to either citizen users or to industry.³³ While Annual Reports and Corporate Plans are published, it can be difficult to find various other information on its website, including performance data. Governance information is notably lacking: details of Executive Board membership

³² Pensions Ombudsman and Pensions Protection Fund Ombudsman, (2018), *Annual Report and Accounts 2017/18*.

³³ <https://www.gov.uk/government/collections/how-to-publish-central-government-transparency-data>

can only be found in the Annual Report, and Executive Board minutes are not published.

TPO's website is also an important tool for informing users of TPO's service about its processes. The website is the place many customers will go to find out whether TPO can handle their complaint, and what process they will use. Pension schemes also use the website, both as a respondent providing information, and to locate information about past determinations in order to anticipate how the complaint is likely to be resolved.

Currently, all of this information is present, but sometimes out of date or difficult to aggregate up to provide general guidance. For example, the 'Our investigation process' page states that TPO aims to close cases within 11 months, though the current goal is in fact 6 months.³⁴ The website has also not been updated to reflect the transition of the Dispute Resolution Team from TPAS. Now called the Early Resolution Team, this accounts for around half of TPO's cases. Information about what kind of cases TPO can look at and the legal status of the resolutions it provides should be clearly outlined for customers and schemes.

We heard evidence from a number of interviewees that the website could also be better used to manage demand for TPO's service, for example through trialling better communication tools such as filtering tools to prevent customers contacting TPO with unsuitable cases, and web chat. It could also provide methods of gathering customer satisfaction data (see recommendation 13), to improve rates of customer feedback.

We appreciate that the website is out of date due to a number of factors. TPO has undergone huge change in the past year, including an office move, and is currently implementing a new CMS as well as undergoing an internal reorganisation. All of these factors mean that it has been logical for TPO to direct its limited resources to other priorities. The CMS also contains customer-facing elements, which will need to be integrated into the website, and so it has made sense for TPO wait to update its website until after its introduction.

Improving TPO's website will require upfront investment and expertise, as TPO's current business support resources are stretched thinly. The review team felt that updating the site to reflect the adoption of the Early Resolution Service is essential to provide clarity to customers and stakeholders, but a larger overhaul of the website could be considered a less pressing issue. It is also important that TPO's gateway to its services fully meets Government Digital Service accessibility requirements and is

³⁴ <https://www.pensions-ombudsman.org.uk/our-process/our-investigation-process/>

tested in the design stages, to meet the needs of citizens with disabilities or who may be interacting with the service at a time of distress or in difficult circumstances.

Recommendation 7: TPO should agree a timetable and resourcing to fully refresh the information and tools available on its website, utilising DWP advice and if required external expertise on content design and user testing.

5. Operational Effectiveness

Does TPO carry out its functions effectively?

TPO is overall effective in its function of investigating complaints about pensions administration. We heard unanimous feedback from stakeholders that, despite the considerable organisational change underway, TPO is respected and commended for the clarity and quality of its core decision-making.

In 2017/18, TPO completed 1,591 investigations, and took on average five months to complete new investigations, which exceeded its 2017/18 goal of seven months. It successfully eliminated a back log of 730 cases between April 2017 and March 2018, while still taking on 1,676 new investigations. TPO is also responsible for investigating complaints about the actions and decisions of the Pension Protection Fund and Financial Assistance Scheme, but these complaints make up a small proportion – only three cases were accepted for investigation in 2017-18 – of its caseload, and are dealt with by the same processes used for complaints about other pension providers.

The review team have concluded that the central areas for improving effectiveness lie in developing a strategic approach to business planning and organisational resilience, alongside a more stretching and comprehensive performance management framework.

Business planning

TPO's Executive Board sets its key organisational priorities, supported by published actions and key performance indicators (KPIs). There are numerous internal planning objectives which underpin the planning of casework and internal reform. Three KPIs are tracked monthly at Board level and published in the Annual Report and Accounts. For 2017/18, the published KPIs were:

1. Complete new investigations within, on average, seven months from the date on which we had a valid application.
2. Complete 1,800 investigations (which would mean eliminating a backlog of 600 investigations and dealing with 1,200 new investigations.).
3. End the year with 700 investigations in hand

The review team has concerns over whether this system of business planning and performance monitoring is sufficient for evaluating TPOs effectiveness, or whether it is sufficiently ambitious (for example, by comparing service performance, timescales and feedback measures with other relevant organisations and Ombudsmen). For example: TPO has not defined measurable targets for all the key deliverables set out in its Corporate Plan, nor does it articulate or publish appropriate ways of assuring customer service standards or the impact of its preventive work with the industry.

We have concluded that TPO's performance framework requires a reset, to better define and align its performance indicators with the strategic goals of the organisation, including its move towards earlier resolution of cases, and to provide consistently high quality guidance and decisions. TPO could accomplish this by introducing a 'balanced scorecard' approach, drawing on the expertise of DWP or other organisations in this area. This approach would include a range of measures to track aspects of service quality, customer satisfaction, efficiency (e.g. unit costs), impact on industry, and people/capability indicators.

Accordingly, the review team recommends that TPO should refresh its performance framework and KPIs to reflect its expanded remit and customer service commitments. The refreshed KPIs should also be published in their entirety in the Annual Report and Accounts, as well as on TPO's website, to increase TPO's transparency about their effectiveness and value for money.

Recommendation 8: TPO should refresh their KPIs to reflect their expanded remit and customer service commitments.

Forecasting demand

TPO's forecasts are internally generated and based largely on average increases in past years for each type of case. Whilst we heard evidence also from pensions stakeholders and other Ombudsmen that demand is very difficult to fully anticipate, we consider that TPO's forecasting could be improved.

Overall demand for pensions dispute advice appears likely to grow, for the reasons set out at the outset of this report. This may not all mean an increase in demand for all parts of TPO's complaints handling process however, as with the change in approach to early resolution of complaints we would expect more cases to be resolved at the earliest stages of the complaints process. Additionally, as TPO builds up its stakeholder work it should be able to identify administration issues early and notify the schemes it works with before these issues result in complaints. The review team would like to see TPO define success as increasing the effectiveness of its preventive work, ensuring that cases are handled effectively in the first instance by pension schemes wherever possible.

Regardless, month on month demand will continue to be unpredictable, as it is driven by external events such as administrative and outsourcing issues at particular providers, and impacted by the results of court decisions. This points to the need for TPO to improve its operational resilience and contingency planning to be able to instigate measures to address unexpected surges in demand, or to prioritise its available resources on the assumption it will be unaffordable for the past rate of growth in spend to continue.

Operating model

TPO's current operating model involves complaints passing through several stages, with the possibility of the complaint being resolved at any point in the process. A full explanation of this process can be found in Annex A.

This current operating model has been recognised by TPO to be inefficient, as duplication of work can occur between teams, particularly as cases are triaged in several different places. This is partly due to changes to the operating model introduced in 2018 to accommodate the movement of the Early Resolution Team from TPAS, as TPO chose to move the team and its functions, before assessing how best to integrate them into its operating model. The current model is also not the best possible customer journey, because customers must be transferred through so many teams as their complaint progresses. At the time of our fieldwork, TPO was in the process of an internal reorganisation to improve its complaints journey.

Appeals

Ombudsman Determinations can be appealed on a point of law through the High Court in England and Wales, the Court of Appeal in Northern Ireland and the Court of Session in Scotland. In 2017/18, TPO had eight new appeals against Determinations, and its average annual number of new appeals between 2014/15 and 2017/18 is nine.

TPO does not get involved in every appeal, as cases are between the two original parties (complainant and respondent). From 2016-17, TPO made a decision to intervene in appeals more proactively. It now participates in appeals that have a bearing on TPO's jurisdiction and processes, and where there is legal uncertainty about the issue being determined.

Adoption of the Early Resolution Team

The adoption of the Early Resolution Team (ERT) from TPAS in March 2018 completed a recommendation of the 2014 Triennial Review of Pensions Bodies, which suggested the movement in order to reduce the duplication in informal complaints resolution by TPAS and TPO.³⁵

As TPO reorganises its casework function to better incorporate the ERT function, it will need to clarify the role of the ERT. ERT helps resolve complaints, but also gives guidance to customers on how to make a complaint. It is not straightforward for customers to distinguish between the guidance roles of ERT and MAPS. Some stakeholders also expressed concern that the role of giving guidance blurs the line between TPO being an independent adjudicator rather than customer advocate. TPO should work to clarify ERT's role in providing guidance but maintaining the Ombudsman's independence. Consistent with the December 2018 public consultation

³⁵ Department for Work and Pensions, (2014), *Triennial Review of Pensions Bodies Stage 1: Options for delivery; Report by the Department for Work and Pensions on the Pensions Regulator, the Pensions Ombudsman, the Pension Protection Fund Ombudsman and the Pensions Advisory Service.*

exercise run by DWP,³⁶ we consider that legislation should be updated to support and formalise TPO's early resolution work, at the earliest opportunity for Parliamentary time.

The ERT also handles cases before they go through IDRPs. This means that if resolution at this stage fails, cases may go through IDRPs and ultimately return to TPO to be investigated by an Adjudicator. Therefore, there is a need for a clear process within TPO to provide assurance that these cases are handled independently from other sections of the organisation.

Additionally, the review team heard stakeholder confusion around what cases go to ERT, and how the balance is struck between resolving cases early and allowing schemes to have the opportunity to use their own processes to resolve complaints before third party involvement. As TPO clarifies its approach to resolving cases before they have gone through IDRPs, they should ensure that its decision making includes consideration of cost effectiveness and emphasises provider responsibilities.

Recommendation 9: TPO should work to clarify externally what cases are appropriate for resolution by the Early Resolution Team, and provide assurance that Early Resolution cases are handled independently from other sections of the organisation.

Volunteers

The ERT is supported by over 200 volunteers, who handle approximately 40% of the cases that come to the team. TPO is the only Ombudsman service to use volunteers in this way. The current volunteers were nearly all recruited by TPAS and moved to TPO with the rest of the team. The volunteers have many years of experience in the pensions industry, and include current and former employees and trustees of schemes. They work flexible hours, choosing when to accept cases for investigation.

The volunteers are an expert resource and a major asset to TPO. Their casework goes through assurance procedures by regional volunteer managers and the full time ERT members. There is currently no information about the volunteer resource in TPO's communications. TPO is actively considering how best to use the expertise of its volunteers. Other uses could include volunteers acting as ambassadors for the service at stakeholder events, or working with adjudicators to give expert advice and guidance. This review supports TPO's development of these ideas, and encourages them to clarify how they intend to use the volunteer resource going forward. However, we noted that at Executive Board level there needed to be a more rigorous approach and consultation with volunteers, and stakeholder groups, on the future strategy for recruitment, retention, assurance and risk management of volunteers (including on handling customer data and potential conflicts of interest).

³⁶ Department for Work and Pensions, (2019), *Government response: The Pensions Ombudsman: dispute resolution provisions and widening of jurisdiction*

Recommendation 10: The Review team concur with previous reviews that the transfer of an expert volunteer resource from TPAS is a major asset and endorse TPO's commitment to better utilise this. TPO should create a volunteer strategy to clearly articulate how volunteers are utilised and how the associated risks and opportunities will be managed.

New Case Management System (CMS)

The first phase of TPO's new CMS, which provides a new platform for internal handling of cases and (from July 2019) an improved portal for customers to make an application, went live on April 1st, 2019. The fieldwork for this review was completed in February and March 2019, and so we are unable to assess the full impacts of this new system on the organisation. The CMS will also continue to be improved in the coming year, adding functions for respondents to cases and ensuring the customer/respondent facing portal meets their needs.

The review team did view a demonstration of phase one of the new system, and are assured that it will facilitate much better tracking of cases as they move through the organisation and higher quality management information. This has the potential to address many of the areas for improvement identified elsewhere in this review, subject to a clearer plan and assurance for development of the system and full engagement and testing with all types of users (including respondents). The new system should also allow TPO to work more efficiently, by allowing better tracking and control of demand fluctuations and timescales.

Measuring and Improving Performance

Timescales

TPO keeps track of how long it takes on average to close new investigations, from the point that it receives a valid application. TPO has successfully shortened its timescales over previous years, with a dramatic drop from 10 months on average to complete new investigations in 2014/15 – 2016/17 to five months in 2017/18. This change reflects increased resourcing and also TPO's move to more informal resolutions.

We note that TPO will always have some cases that take much longer than its target timescales, due to the complexity of the case or delays in complainants and respondents providing information. However, TPO has made impressive progress in shortening its average timescales, and may be able to continue to streamline its processes with the new CMS and an ambitious approach.

Quality assurance

TPO is currently working on introducing a formal quality assurance framework. At present, quality assurance activities are disjointed across the organisation and lack consistency. In our view, this is an area where processes have not yet matured in line with the scale of the organisation. Stakeholders expressed confidence in the decisions reached by Adjudicators and the Ombudsman, but a more systematic framework to

consistently measure quality of casework across the organisation is absolutely necessary for a growing organisation. The Executive Board should also consider how it achieves independent testing and assurance against this new framework, for example in its annual programme of review by the Government Internal Audit Agency.

Stakeholder opinion/public standing

TPO launched a stakeholder engagement programme in 2016, and the reactions to the increased interaction between stakeholders and TPO has been extremely positive. It has increased knowledge about TPO's functions, and allowed TPO to collect valuable feedback from the organisations they work with.

Many of the organisations TPO interacts with frequently were assigned Stakeholder Managers to act as a point of contact for the scheme at TPO. These new relationships have been producing clear benefits. For example, when TPO received a wave of complaints from a large public sector pension scheme, they were able to notify the scheme of the problem. The scheme was then able to take quick action to communicate with its customers and resolve the complaints themselves, preventing customers from having to use TPO at all. TPO should continue to build on this approach, expanding its work with pension providers. As TPO changes its ways of working, it should also use its stronger relationships with stakeholders to proactively consult on internal changes before they are finalised, ensuring clarity around how the organisation works.

TPO should continue its positive journey to expand stakeholder liaison and to become a more influential player in raising standards across the pensions industry. As discussed in Ch. 2 and 3, TPO should improve its strategic insight and trend analysis to industry, TPR, DWP policy and sponsoring departments of occupational public sector schemes. By sharing this information, TPO can encourage pension providers to improve their standards of administration, and therefore have a positive impact that extends further than the resolving of individual complaints.

Stakeholders also expressed an appetite for TPO to produce guidance tailored to pension providers and Trustees. This guidance would focus on ways for schemes to avoid common problems, and clarify TPO's processes and expectations of respondents to a case.

Recommendation 11: TPO should continue its positive journey to expand stakeholder liaison and to become a more influential player in raising standards across the pensions industry.

Customers

TPO has historically collected minimal customer feedback. An annual survey was conducted until 2016, requesting feedback from all customers whose cases had been closed in that year. It had a low response rate of 24%, possibly due to the time lags

between customers' cases being closed and the survey being sent out, which was up to 12 months.

TPO should seek and publish much more regular feedback from its customers, and ensure customer and stakeholder feedback is considered and acted on at Executive Board level. While we recognise that customer feedback should be categorised and reflect whether customers received a positive decision in their favour, it is a critical performance indicator in an almost entirely customer facing service. Feedback can also be regularly sought at different stages of the complaints journey, ensuring that customer service standards are high throughout, and address the desire for clearer communications to customers about the progress of their case.

Recommendation 12: TPO should seek and publish much more regular feedback from its customers, and ensure customer and stakeholder feedback is considered and acted on at Board level.

6. Organisational Effectiveness

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

The review team found that TPO's workforce was professional and knowledgeable. We were extremely impressed by the evident commitment of all the TPO staff we met to good customer service. TPO should celebrate its success in managing ongoing organisational change, whilst maintaining effective staff engagement, and turn towards the future, developing longer term strategies to meet its future needs.

Staff engagement

TPO's 2017-2018 annual staff survey had a response rate of 60%. Responses in relation to the work, management, and the overall organisation were strongly positive. The 2017-18 survey showed a particular increase in understanding about the organisation's goals from previous years, with 81% saying they understand and agree with the direction the organisation is going, up from around 66% in 2016-17.

TPO gives many opportunities for staff to give managers and Board members feedback, for example holding 'Hear Here' whole office meetings. TPO has demonstrated its ability to respond to results of the annual survey, for instance sharing summaries of Executive Board meetings and taking steps to increase the visibility of senior leadership after the most recent survey.

Flexible Working

In 2018, TPO introduced a 'Smarter Working Policy' as part of its move to a new office in the Government Hub in Canary Wharf. This policy involved allowing staff much greater flexibility around how and where they work, including opportunities for home working. This transition required staff to adjust their ways of working, moving to use more digital tools and virtual methods of communication. The staff survey reflects how the move was received very positively by staff, with 95% feeling positive about the introduction of the Smarter Working Policy. The proportion of staff who felt they can balance work and personal life also increased from 67% in 2016-17 to 91% in the 2017-18 survey.

TPO has been ahead of the curve in the introduction of its Smarter Working Policy, and the knowledge gained in this exercise should be shared with other government bodies.

Recommendation 13: DWP should work with TPO and the CO Public Bodies team to review and share with other public sector organisations the lessons from TPO's forward-thinking approach on flexible working.

Workforce planning

The workforce growth outlined earlier in this report has been focused in TPO's casework teams rather than business support functions. This has resulted in TPO's business support functions, including HR, being put under increasing pressure.

TPO does not currently have a clear People Strategy which encompasses all elements of TPO's approaches to recruitment, learning and development, and culture. However, these issues are all considered separately within the Business Support Team and reported at Executive Board Level by the Business Director. The review team consider it would be beneficial for TPO to develop a People Strategy encompassing various aspects of future workforce planning and capability. This will support the Executive Board to safeguard an effective, skilled and motivated workforce into the future.

At present, the HR information presented to the Executive Board is not comprehensive. For example, the review team would expect more regular reporting of data on, for example, staff turnover and working days lost. We also found that work was still required to baseline the current skill requirements in the organisation, and to work through how this would need to evolve in conjunction with the proposed new business operating model. Identification and collection of key HR data should underpin the People Strategy TPO introduces.

This review did not have the capacity or remit to conduct a thorough review of TPO's team or pay structures. However, it was noted that the ERT who moved from TPAS in 2018 are on a different pay structure from other TPO employees. The integration of the former TPAS employees into TPO pay structures may be a task, with HR support, for a new COO to continue to consider in more detail. Similarly, whilst recent new roles have included a Stakeholder Manager, Quality Assurance Manager and a Deputy Casework Director it is likely that the detailed management structures and roles will benefit from wider consideration of future needs by the Board and DWP partnership team.

During our review period, the Executive Board had commissioned and considered a review of the Legal Team's structure and pay, with the aim of resolving existing difficulties in recruiting qualified pensions lawyers on existing salaries. We acknowledge that steps are being taken internally to resolve the pressing recruitment issues in this area and make no further recommendation.

Learning and Development

TPO's Corporate Plan includes the strategic aim of:

“Monitoring and developing our staff resources to ensure that we have the right number of staff, in the right jobs, with the relevant skills and experience to deal with the demands placed on us.”³⁷

TPO has an experienced workforce, including considerable and specialised pensions expertise. It actively works to improve the capabilities of its staff, with a yearly Learning and Development Strategy and a Learning and Development Forum for

³⁷ The Pensions Ombudsman, (2018), *Corporate Plan 2018-2021*.

communication with staff about what their needs are. TPO staff have access to Civil Service Learning, which has a wide range of training and resources.

TPO is planning to reassess the skills its staff need as part of its internal reorganisation, to ensure that they make the best use of caseworkers' individual skills and that they can deploy resources more flexibly across casework priorities. A number of interviewees commented that TPO could usefully scale up both its in-house pensions training and investment in leadership and management skills. The ability to provide such training could also enable TPO to widen its recruitment pool to include people with less prior pensions expertise.

Employee Diversity

TPO ran a staff diversity survey at the end of 2016, but did not receive the number of responses required to make the survey representative of its staff as a whole. This may be due to TPO's small size, as staff were possibly concerned that they could be identified as the respondent to the survey.

As an employer of under 250 employees, TPO is not required to publish gender pay gap data. At the end of the 2017/18 financial year, TPO's workforce was 53% male, 47% female.

TPO is recognised as a Disability Confident Committed employer. Disability Confident is a government scheme developed to help employers successfully employ and retain disabled people and those with health conditions for their skills and talent. TPO is committed to:

- Inclusive and accessible recruitment
- Communicating vacancies
- Offering an interview to disabled people who meet minimum requirements
- Providing reasonable adjustments
- Supporting existing employees

TPO is in the early stages of developing a strategic approach to diversity, both in terms of understanding and meeting customer needs and in relation to its internal culture and processes. At present, TPO lacks a clear and consistent approach, for example, in meeting the needs of vulnerable customers or identifying if there are groups of customers who are not accessing its services. As a public body, TPO should aim and track progress on attracting, retaining and developing a workforce that reflects the diversity of the public they serve and its location in East London.

At the time of our review, we did not see sufficient clarity of leadership or assurance at Executive Board level that the organisation has a data-driven approach to diversity and inclusion for both its workforce and customers. This could be done, for example, through more regular diversity surveys (with regard to protecting respondent's anonymity), and the promotion of learnings from engagement with different groups of customers and other similar consumer protection bodies. We welcome TPO's

commitment to make diversity and inclusion a priority during 19-20 business planning and in the People Strategy TPO designs in consultation with staff. Future commitments and measures should be tracked rigorously at Executive Board level and (where appropriate) published.

Recommendation 14: TPO should introduce a People Strategy with clear priorities for positive promotion of diversity and inclusion and investment in learning and development.

7. Operational Efficiency

This chapter considers the available evidence on how well placed TPO is to demonstrate current and future value for money in discharging its functions. As noted earlier, TPO is wholly funded by the General Levy on pension schemes, which ultimately is paid by ordinary scheme members as part of the running costs for their invested or occupational scheme funds.

Having considered the anecdotal evidence available to us on the impacts of other options for TPO funding, particularly the introduction of case fees, we conclude that Levy funding remains the best and well-supported mechanism for funding TPO.

However, we heard from a number of contributors that levy funding has blunted the incentives there would usually be for any arm's-length body to seek and track delivery of efficiencies. This has also historically resulted in a lower level of challenge by the Department on TPO's finances than we might expect. We consider that both TPO and DWP should be much more robust in identifying efficiencies in the new business year (2019-20) and as part of a future Spending Review.

TPO Funding and Financial Planning

Consistent with other public bodies, the Department's ALB Partnership team approves TPO's budget annually. TPO's Business Support Team carries out forecasting, budgeting and financial activity in-house. Financial information is regularly shared with the Department, and challenged by Departmental Finance Business Partners at TPO's Quarterly Accountability Reviews. TPO is required to comply with the principles set out in 'Managing Public Money',³⁸ and is subject to the delegations set by the Department (discussed in ch.3). TPO's responsibilities regarding financial planning are set out in the Framework Document.³⁹

Net Expenditure

TPO's Net Expenditure has increased as its headcount increased, for the reasons discussed at the beginning of this report.

Fig. 3

(£m)	2015/16	2016/17	2017/18	2018/19
Grant in Aid	3.432	3.900	5.131	6.666
Net Expenditure	3.380	4.139	4.535	6.043

³⁸ HM Treasury, (2013), *Managing Public Money*.

³⁹ Department for Work and Pensions & The Pensions Ombudsman and Pension Protection Fund Ombudsman, (2014), *Framework Document Between The Pensions Ombudsman and Pension Protection Ombudsman & The Department for Work and Pensions*.

General Levy

DWP funds TPO, TPR and MAPS through Grant-in-Aid, which is all (in relation to TPO) or partially recovered through the General Levy on pension schemes in the United Kingdom. The levy is collected on DWP's behalf by TPR.

The General Levy is currently under pressure, as demand for levy-funded services is projected to grow in future years. The Department is currently conducting a review of levy funding, which could result in future changes to the revenue collected. Should TPO's requirements outstrip the availability of levy revenue there would have to be consideration of alternative funding arrangements. This could result in the Department partly funding TPO from within the existing Departmental budget, or a need to reshape the services offered by TPO.

The Chancellor of the Exchequer has announced that a Spending Review may take place in 2019, allocating tax revenue to departments at least through the fiscal year 2020-21. The combination of the review of levy funding and the Spending Review make it likely that TPO will come under pressure to find efficiencies in the coming years. DWP will need to work closely with TPO to make it clear what its expectations for TPO are in terms of balancing efficiency with continuous performance improvement.

Opportunities for Charging

The review team considered whether TPO could raise funds through charging case fees on pension providers who receive many Ombudsman complaints. This system is currently used, for example, by the FOS (allocating up to 25 free cases to each firm, and then charging a case fee of £550 for every case accepted beyond that cap⁴⁰). Whilst in theory this should incentivise better administration, we saw little evidence that this occurred in practice and interviewees noted that this approach was more difficult to apply in a world where the emphasis has shifted to early resolution with very different resourcing impacts on firms and the Ombudsman service. We have concluded that charging is not a recommended source of funding for TPO and may indeed produce perverse incentives on pension firms to settle cases for small amounts. All the scheme representatives we spoke to recognised Levy funding as a fair and sensible mechanism to fund TPO and the wider regulatory work undertaken by DWP.

Recommendation 15: Given the requirement to review and increase charges to sustain the growing demand for Levy-funded services, DWP should set clearer expectations in 2019-20 and as part of a future Spending Review on areas for efficiency and continuous performance improvement. TPO should work to find and track efficiencies in their processes to meet these expectations.

⁴⁰ Additional case fees may be charged for certain types of cases: https://www.financial-ombudsman.org.uk/faq/businesses/answers/funding_a5.html

Efficiency

In our view, TPO and the Department should take the same approach to efficiency that they would if the body were directly funded by taxpayers. This would involve efficiency being a core focus for Board planning and at TPO's Quarterly Accountability Reviews with the Department. The review team found that TPO had limited focus on operational efficiency and does not currently hold baseline data on the unit costs of resolving cases at different stages in the customer journey. Collecting such data should be an essential starting point for identifying opportunities for efficiencies in its processes.

TPO has successfully tackled historic backlogs and reduced the average timescale to resolve cases. It should continue to set ambitious targets to find more efficient ways of working, without sacrificing the quality of investigations. We consider there is likely to be scope through more rigorous deployment of knowledge management and assurance systems to speed up decision-making and to realise the benefits of a modern digital platform. A focus for TPO's internal reorganisation should be ensuring a flexible workforce, who can be deployed more efficiently to meet fluctuations in demand. This will need to be supported by the collection and analysis of more detailed management information.

Recommendation 16: To provide assurance to DWP and the TPO Board that investment in a new Customer Management System and a redesigned customer journey will yield both an improved customer journey and efficiencies, TPO should set much more ambitious plans for tracking and reducing unit costs, and better anticipating and managing demand fluctuations.

Operating Expenditure

TPO's operating expenditure grew by 45% between 2016/17 and 2018/19, as TPO faced increased demand and eliminated a backlog of cases. Figure 4 gives a breakdown of this expenditure.

Fig. 4

(£)	2016/17	2017/18	2018/19
Staff salaries	2,728,467	3,132,004	4,313,475
Other staff costs	127,490	76,826	197,368
IT and telecoms	438,265	390,819	495,412
Professional Services	36,670	34,690	37,500
Subscriptions	75,461	84,491	86,234
Legal and professional costs	208,735	257,744	176,760
Accommodation	338,487	419,071	454,672

Printing postage and stationery	41,930	43,811	50,673
Insurance and Business Continuity Arrangements	8,646	9,329	27,385
Other	47,281	38,254	30,124
TOTAL	4,051,431	4,487,039	5,869,601

Staff costs

Staff costs have driven the majority of TPO's increased operational spending. Staff resources have been increased to meet rising demand as well as to provide resource for stakeholder engagement and quality assurance work.

As part of TPO's reorganisation, it will be able to baseline its resource needs against a more streamlined process.

Other staff costs

This includes spend on staff training and agency staff. The large increase in 2018/19 was driven by difficulties in recruiting and retaining staff. TPO has taken action internally to address these issues.

IT and Telecoms

TPO entered into a new IT contract in Dec 2017, with service going live March 2018.

Professional Services

This category includes spend on audit and accountancy services.

Subscriptions

These costs largely relate to subscriptions to legal research tools.

Legal and Professional costs

This includes spend on Counsel fees when TPO is involved in an appeal, and varies depending on what cases TPO chooses to participate in.

This category includes spend on consultants. In 2018/19, TPO hired consultants to assist with the design and implementation of its new Customer Management System, as well as to review its legal team's structure. This caused spend in the area to nearly triple. We would expect spend to fall in future years when the new systems have been implemented, and with more effective connections in place to utilise DWP and other ALB expertise.

Accommodation

In 2018, TPO moved to the Government Hub in Canary Wharf. The new office space is 500m², and costs £909/m² (subject to annual increases in line with RPI). Their total

cost for accommodation in 2018/19 was £454,672. This is an increase on 2017/18's spend of £419,071 for its previous office space, which was 545.97m², at a cost of £767/m². Although the Government Hub space is more expensive in total than the accommodation TPO previously occupied, it is of a much higher quality. This consolidation into a multi-occupied building is in line with the Government Hubs Programme.⁴¹

TPO occupies a Net Internal Area of 500m². As of April 2019, its ratio of square metre per full time employee (FTE) was 5.8:10, under the government benchmark ratio of 6:10 per FTE.

If TPO increases its number of FTE much further, they will outgrow its current office space. They can continue to bid for space in its current building, but if the organisation expands further then it should consider whether it would be cost efficient to add an office outside of London and the South-East, in line with the Government commitments in the Government Places for Growth Estate Strategy. This decision would also require consideration of the locations of the organisations TPO works closely with, such as larger pension schemes, TPR, and FOS.

Printing, postage and stationery

The 16% increase in 2018/19 is due to the arrival of the Early Resolution Team. This team is supported by volunteers, who do much of its work using printed case files that are posted to them. This is due to both the team's own historical working practices and a lack of appropriate data security to allow case information to be shared electronically with volunteers.

TPO should set out clear costed plans to significantly reduce their printing and postage cost. Currently, the business support team is exploring methods of secure electronic communication to send case information to its volunteers, including considering the costs of enabling volunteers to access the new CMS. We recognise this must also fully address the data security implications and costs of enabling volunteers to work electronically.

Insurance and Business Continuity Arrangements

The large increase in 2018/19 is due to professional liability insurance costs for the volunteers who transferred from TPAS in 2018.

Other

This category includes recycling, photocopier, office equipment, room hire and catering charges.

⁴¹ Cabinet Office, *Government Estate Strategy 2018*, (July 2018), https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/738217/Government_Strategy_Final_AW_v2.pdf

8. Next Steps

The Tailored Review team has worked closely with TPO, the Department for Work and Pensions and the Cabinet Office. All of the recommendations of this review have been accepted by TPO, the Department and Cabinet Office and approved by the Minister for Pensions and Financial Inclusion. Progress against the recommendations of the review will be monitored by the Department's ALB Partnership Team.

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

Annex A

When customers bring a complaint to TPO, their complaint will go through the following casework teams. A complaint may be resolved or withdrawn at any stage in the process.

First Contact: All enquiries to TPO, by post, email or phone, are handled by the First Contact team. This team communicates with the customer to try and determine the best path for their complaint. This can include redirecting the customer to another service (such as FOS or MAPS), gathering information about their complaint, and sending the complainant on to either the Early Resolution Team or the Pathway team.

Early Resolution Team (ERT): This team was transferred from TPAS in March 2018, and its processes are not fully integrated into TPO's operating model at this time. The current internal reorganisation process aims to rectify this. This team intervenes in cases that are early in the complaints journey, for instance complaints that have not yet gone through their pension provider's Internal Dispute Resolution Process (IDRP). Much of the work of this team is completed by volunteers, who also transferred from TPAS.

ERT can resolve complaints in two different ways. For complaints that can be dealt with in only a few engagements, they use a 'quick response' method. For more complex cases, they use a 'case' approach, which more closely resembles that used at the Adjudication stage and can take a much longer period of time. The majority of cases seen by this team are resolved at this stage and do not proceed further through the complaints journey. Those that are not resolved are either directed back to the pension provider's IDRP process, or proceed to the Pathway team. See below for further discussion of the role and processes of the Early Resolution Team.

Pathway: This team evaluates whether the complaints falls within TPO's jurisdiction. They gather the information required to begin an investigation, and then make a decision on whether TPO can determine the case under their statutory guidelines. The Pathway team then either rejects the case on jurisdictional grounds (sending it on to the FOS if it is appropriate for that body to consider) or sends the case on to Adjudication.

Adjudication: Adjudicators investigate complaints, gathering more information if necessary. Cases are allocated to individual Adjudicators based on complexity and the individual Adjudicator's skills and expertise, and Adjudicators receive support from TPO's Legal team as appropriate. Adjudicators can take several different approaches to resolving the complaint. They can resolve the complaint informally, agreeing a resolution with both the complainant and respondent. They

can issue a Decision, a non-binding statement of the Adjudicator's view on how the Ombudsman is likely to determine the case, which the parties can choose to accept. Otherwise, they can refer the case on to a full Determination by the Ombudsman or Deputy Ombudsman.

Determination: At this stage the Ombudsman or Deputy Ombudsman makes a final, legally binding Determination on the complaint. After this point, Determinations can only be appealed on a point of law through the High Court in England and Wales, the Court of Appeal in Northern Ireland and the Court of Session in Scotland.