



pensions ombudsman

pension protection fund ombudsman

Annual Report and Accounts 2012/13

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

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

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About us

The Pensions Ombudsman

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

The Pension Protection Fund Ombudsman

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

Funding

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

In 2012/13 the office received £2,959,000 grant-in-aid, incurred net expenditure of £2,932,325 and had net assets at 31 March 2013 of £372,452. Full details are in the accounts.

Ombudsman's Introduction

Section 1: Ombudsman's Introduction

Our work

This year has been as busy as any that I can think of in the (over) five years that I have been in post. But, unlike many other ombudsmen – particularly those concerned with pensions and financial services generally – the reason is not that complaint numbers have gone up dramatically. It is in the main because we have been putting more and more effort into providing an efficient, consistent, flexible service to parties to complaints – at the same time as working to reduce investigation timescales and build a base for a more modern service in future.

Perhaps the most impressive feature of the year has been that at a time of considerable change and development we managed to meet almost all of the targets we set for ourselves. For that the credit goes to our staff. As we note later in the report, we are very fortunate to have so many people who are committed to what we do and who strive to provide quality service. I am grateful to them for their considerable efforts.

The detail of what we have been doing is set out more fully in the body of the report. But particular activities of note have been:

- working to shorten time when there is no activity on cases while they wait for investigations to begin;
- changing our process to empower investigators to be more authoritatively involved in decision making, and to encourage consistency of presentation of decisions;
- a change in our team structures to reflect better the nature of the workload;
- implementing a new casework management IT system;
- updating our IT infrastructure.

At the year end all those things were, to some extent at least, still work in progress. In particular the IT infrastructure implementation, which should have been complete, has not proceeded smoothly for reasons that are explained in much more detail later. (The most extraordinary, if relatively short-lived, obstruction to progress on that was a literal one: a concrete blockage below a pavement manhole that could not be dug out because doing so might have disrupted traffic during the Olympics!)

However, on all fronts I am confident that we are past the bulk of the work and that the rewards will be seen in the coming year. In particular the change in process that allows investigators to give a formal “opinion” of the likely outcome of a case has been well received externally and seems to be achieving objectives around speed, consistency and quality.

Cases

There is an understandable expectation that, through what we see in our work, we will be able to give an overview of quality of administration in the pensions industry. Those looking for such an overview in this report will be disappointed. There are rarely any structural or systemic issues that our caseload throws up, and in this year there are none. We deal with under a thousand complaints and disputes a year. They are intractable – or they were before they reached us. But that is about all that they have in common.

People also look to us when there is a known industry issue, expecting there to be an impact on our work, or that we might be able to throw light on the problem. So this year we have been

asked regularly what we are seeing coming out of automatic enrolment. The answer is, so far, little or nothing, although inevitably, by force of the numbers of new scheme members, in years to come a significant proportion of our caseload will be derived from the new arrangements.

If not automatic enrolment, the question is about our attitude to "pensions liberation" – the dubious business of selling a vehicle by which cash can purportedly be released from a pension plan earlier than the usual minimum age of 55. The unexplained downside will be high charges to the arranger and almost certainly a very large tax bill. But we have had no complaints from people who say they were duped or mis-sold – presumably many have taken the cash but have yet to confront the harm to their future pension. We have one or two in the pipeline from people who have found their transfer has been frustrated by trustees in the interests of the member. It seems likely that there will be more, of both types.

The future

My second term of office ends this coming August. By the time this report is published it will have been announced that I have accepted a final term, due to end in 2017. I am delighted to be able to continue in post, working with committed people, doing work that helps underpin the UK pensions structure, at a time when building confidence in pensions is as vital as ever.

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

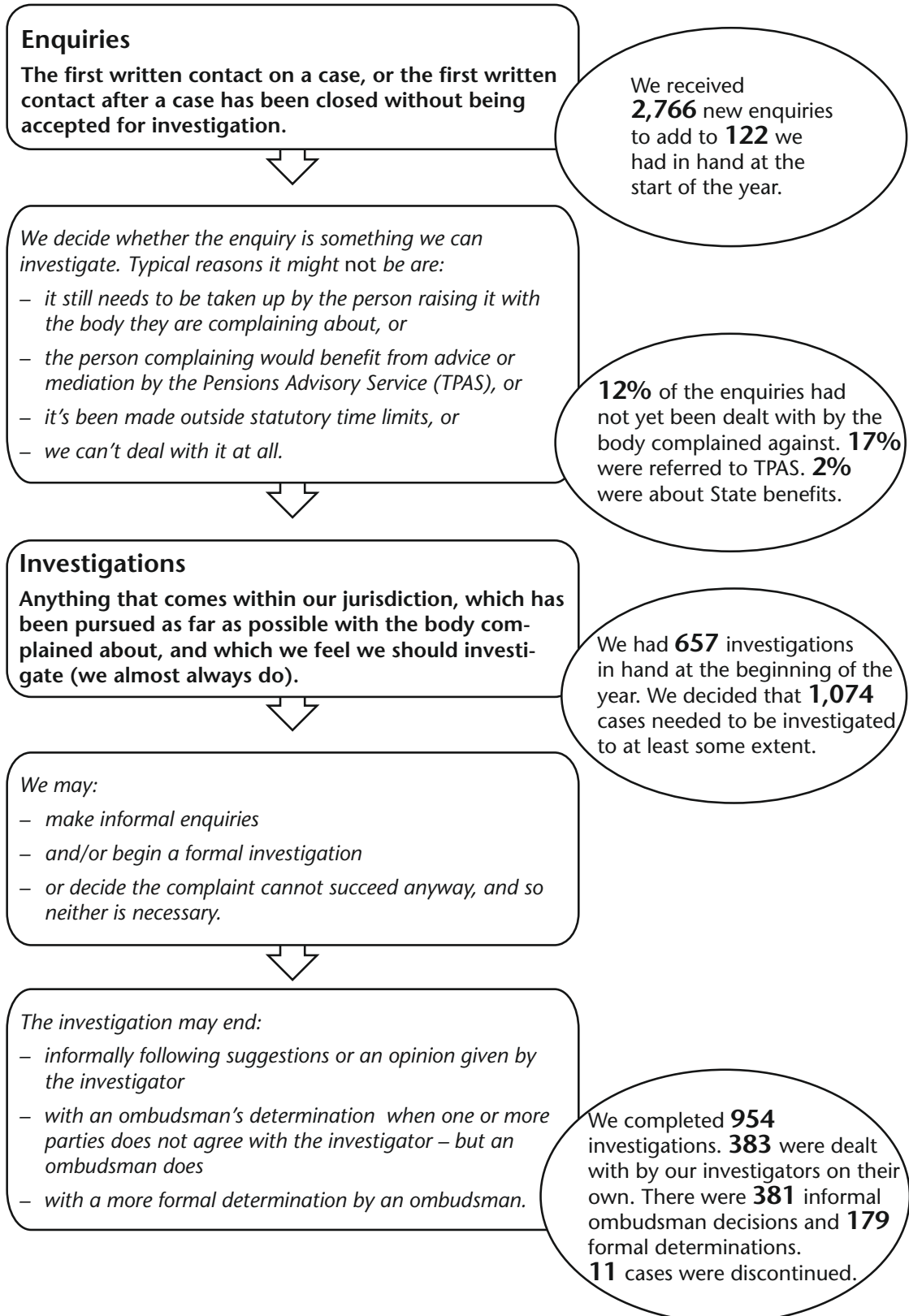
Tony King
Pensions Ombudsman
Pension Protection Fund Ombudsman

Management Commentary

Section 2: Management Commentary

2.1 Pensions Ombudsman casework review

Our process



Our performance

Our key performance indicators are focused unsurprisingly on output, timeliness and cost. We set ourselves some challenging targets this year, and met six out of nine of them. Whilst we would have liked to have met them all, our workload was higher than expected, and the transition to a new case management system took up more staff time than planned. See section 2.4. But, despite this, in some areas we went beyond the goals we set.

What we said we would do

What we did

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

we responded within an average of **2.2** days

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

we had **2,766** and there were **90** open at the year end

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

we made our decisions whether to investigate in **5.7** weeks on average

*we would complete **850** investigations (during the year we increased this to **944** to take account of additional temporary resource)*

we completed **954** investigations

*If we took on **899** new investigations we would have no more than **706** open at 31 March*

we took on **1,074** and had **777** open at the year end

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

we completed investigations in an average of **9.6** months

*Investigations open on 31 March would have an average age of **29** weeks*

the average age was **25.9** weeks

*there would be **20** investigations or fewer over 12 months old at 31 March*

There were **67** investigations over 12 months old

*there would be **0** investigations over 24 months old at 31 March*

There were **14** investigations over 24 months old

Our costs

Our budgeted operating cost for the year was **£3,088m**

Our actual operating cost was **£2,932m**

An under spend against budget of **£0.156m**

We said that our operating cost divided by the total number of completed enquiries and investigations would be no more than **£950**

– it was **£1,094**

We said that our operating cost divided by the number of completed investigations would be no more than **£3,500**

– it was **£3,073**

We received (and hence processed) fewer enquiries than we were expecting this year and so our cost/closure ratio for all cases was marginally higher than expected. However, during the year we changed our approach to recording enquiries, which resulted in recorded enquiry numbers dropping. But balanced against that, because we under spent on our staff salary budget this year the ratio of cost to completed investigations was lower than we forecast. As we have said before, these are quite crude measures which can be considerably affected by particular variations in expenditure. But they do allow a broad year on year comparison and, when variables are taken into account, tell us something about whether we are maintaining efficiency from one year to another. For example, the ratio of cost to closed investigations this year is less than in all but one of the previous five years (and the exception was due to a significant distortion in casework that year).

Our workload

	2010/11	2011/12	2012/13
Enquiries			
Open at start of year	222	204	122
New	3,066	3,728	2,766
Referred, rejected or discontinued	2,169	2,871	1,724
Accepted for investigation	915	939	1,074
Open at end of year	204	122	90
Investigations			
Open at start of year	538	606	657
Accepted for investigation	915	939	1,074
Completed	847	888	954
Open at end of year	606	657	777

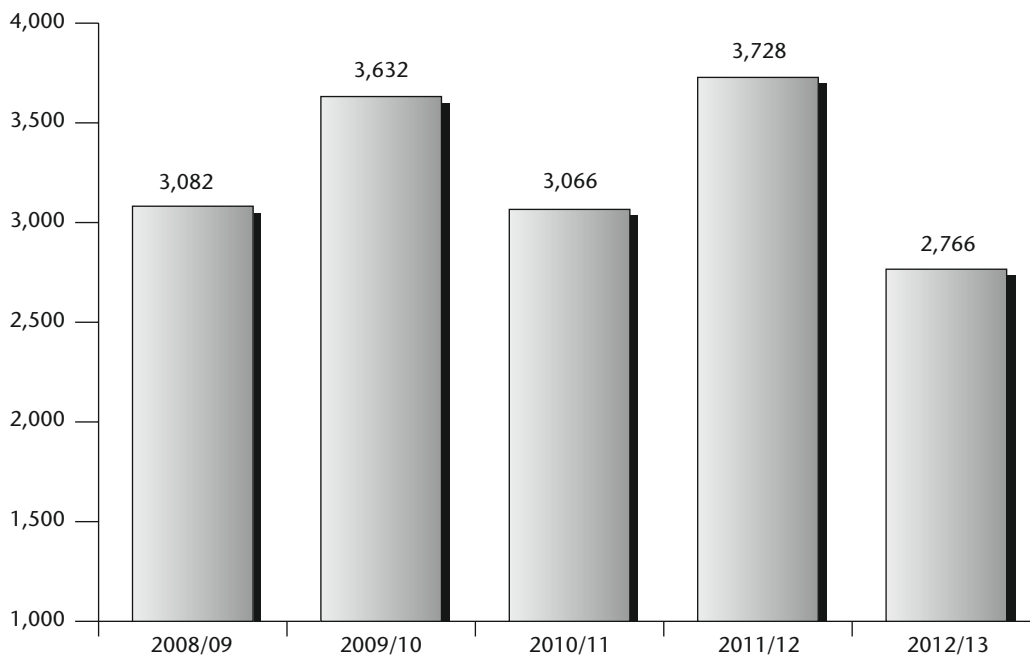
New enquiries

As mentioned above, we received fewer enquiries than we were expecting this year. Our estimate at the beginning of the year was 3,100. We recorded 2,766, but part of the drop was to do with a change in the way we count them, which came in with our new casework management system in January. The number comparable with previous years and our initial estimate would have been higher, but not more than 3,000.

Predicting the number of enquiries likely to be received is always difficult. As well as the influence of wider developments in the pensions landscape, if an issue arises involving one particular scheme with a large membership it can lead to a number of individual complaints to us. They would all begin their life classified as an enquiry.

In 2011/12 for example, we saw a spike in the number of enquiries because of an issue relating to the fire fighters and police pension scheme which produced over 750 enquiries. We now have systems in place to spot these 'associated cases' sooner. So this year when we noticed we were receiving a number of cases involving the Airways Pension Scheme, we were able to use our website to communicate with the 850 or so members in the same situation who might have complained, to tell them that we were already investigating some lead cases on the issue. We did this to try and stem the influx of complaints, because generally once a lead case has been determined the need for other members to raise a complaint about the same issue falls away. Whilst we cannot know exactly how much of a difference the steps we took made, the 68 complaints we received were fewer than there might have been otherwise.

New enquiries over five years



What we did with enquiries

Because of the change in the way we record enquiries it is not possible to directly compare this year's enquiry outcomes with those of previous years. But one clear variation is that a much higher proportion of enquiries turned into investigations this year (38%) – discussed below under "Investigations". The higher than usual percentage of cases "subject to prior court proceedings" relates to the fire fighters and police pension scheme cases mentioned under "New enquiries" above.

32% of cases had to be referred back to the complainant to be dealt with by the body they were complaining about, or passed to the Pensions Advisory Service or the Financial Ombudsman Service.

	2012/13	%	2011/12	%	2010/11	%
Accepted for investigation	1,074	38	939	25	915	30
Complainant not eligible	10	0	8	0	6	0
Respondent not in remit	8	0	13	0	40	1
Not relating to pension scheme/plan	17	1	20	1	15	0
State scheme benefits	68	2	114	3	92	3
Enquiry not yet put to scheme/IDRP not used	321	12	475	12	237	8
Referred to the FSA or FOS	80	3	132	3	127	4
Referred to TPAS	460	17	835	22	877	28
Outside time limits	77	3	88	2	65	2
Subject to prior court proceedings	173	6	19	0	6	0
Discretion not to investigate exercised	11	0	630	17	16	1
Enquiry abandoned/no action needed	499	18	537	14	688	22
Total	2,798		3,810		3,084	

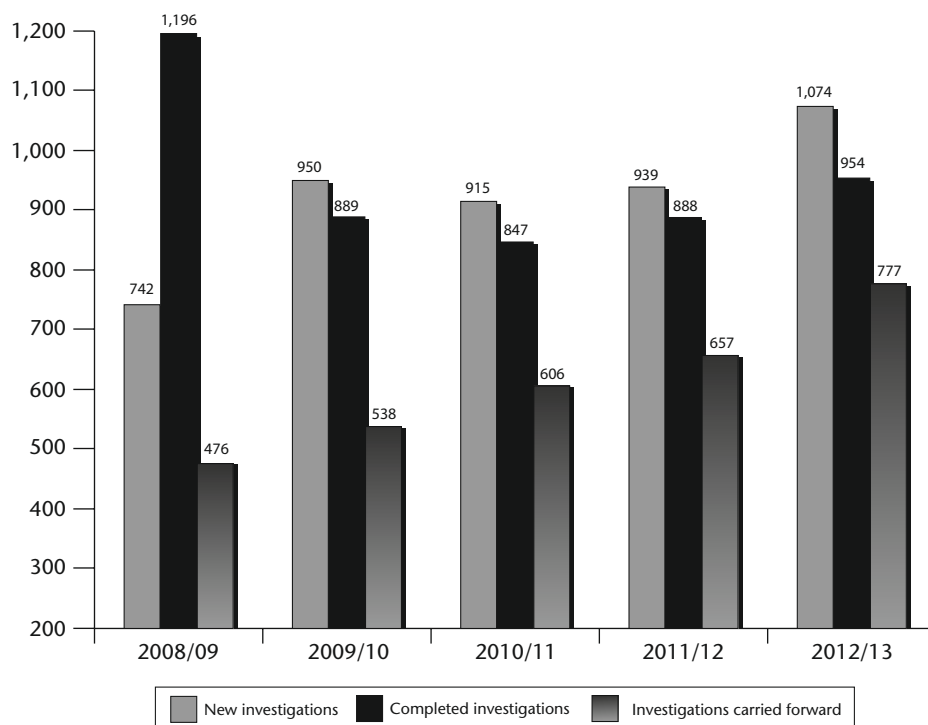
Investigations

We took on 1,074 investigations. We had estimated that there would be about 900, saying in our last report that the trend over the previous years pointed to 900 being the new norm. We were out by about 19% on the headline number – but actually the picture is more complicated. In amongst the 1,074 new investigations were two large related groups adding up to 118. When that distortion is removed the figure is only marginally above the 939 new investigations in the previous year.

Because we will take lead cases from each group the work involved will be much less than for 118 unrelated cases.

So far automatic enrolment has not affected our workload; it is simply too early. We do, however, expect our workload to increase as a result of automatic enrolment over time. That is not because we think that the automatic enrolment process is of itself likely to cause complaints, but just because more people will become members of pension schemes.

Statistically the number of investigations begun has increased as a proportion of the number of enquiries. In recent years 25% to 30% of enquiries have been accepted for investigation. This year the percentage was higher, at 38%. But that is due in part to the two groups mentioned above and in part to the change in our method of counting enquiries, referred to earlier. There is no underlying change.



Our approach to cases

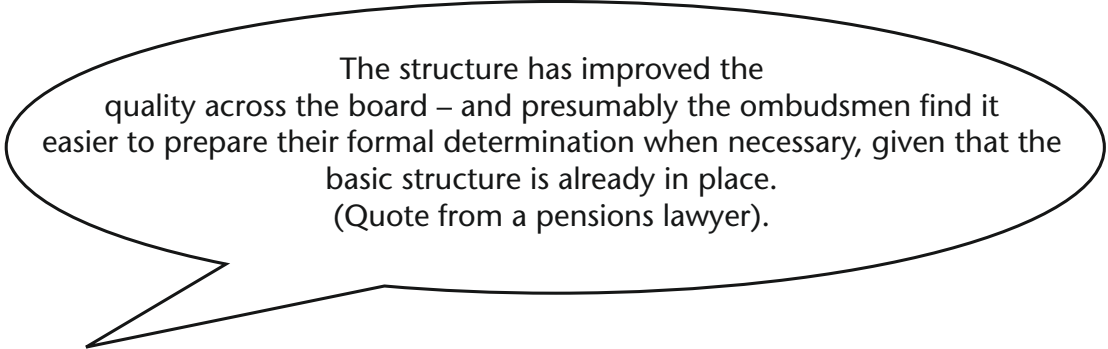
We try to deal with cases proportionately, adopting a process that suits the needs of the case and the parties, rather than shoehorning a case into a single, fixed process.

This year we have been piloting a new process under which investigators may issue their “opinion” of the case in a more formal document than a letter – a letter being the only format in which, before the new process, they could express a view of the likely outcome. There are four reasons. First, we want it to be clear to the parties that the investigator is expressing a fully authoritative view of the likely outcome. The hope is that the view is more likely to be accepted if it has a justifiable air of authority. Second, the effect should be that complaints tend to be resolved earlier in the process, with fewer needing to go to an ombudsman for a formal determination. Third, the slight increase in formality as against letters, and the greater scope for investigators to shoulder personal responsibility for their case outcomes, should increase quality and consistency of presentation. Finally, almost as a by-product, because opinions are stand alone documents, whereas letters were not, we will eventually be able to publish more of our output than we do at present, to educate and guide, with a view to reducing the number of complaints that need to be brought to us.

The pilot has been rolled out gently across the office during the year. An essential part of it was maintaining appropriate checks and balances, to try to ensure that the process was used correctly, and for the correct cases. That included an increased use of peer review, as well as an overview check of the initial cases dealt with by each investigator.

The option to use simple letters for simple cases still exists, however. And there will always be cases where a formal determination is necessary, for example, where the case is complex, involves a new point of law or practice, or the parties simply cannot agree and there are decisions to be made on the facts. Where the ombudsman is planning to issue a formal determination he or she will first write to the parties setting out his or her initial thinking on the matter, and invite the parties’ representations on that. We have also been piloting some changes to the way these “provisional decisions” are presented, so that they are easier to understand.

Early feedback suggests that the changes are working. There has been a modest rise in the number of parties accepting the investigator's opinion at the outset, as against the previous process. And the trend for more cases to be resolved by less formal means continues, with fewer than 20% of cases needing to be resolved formally by an ombudsman.



The structure has improved the quality across the board – and presumably the ombudsmen find it easier to prepare their formal determination when necessary, given that the basic structure is already in place.
(Quote from a pensions lawyer).

The pilot will have run its course by Summer 2013, and we will decide then whether to implement the changes for the longer term – although it seems almost certain that we will, possibly with minor modifications and certainly with additional guidance based on experience of the pilot stage.

So, including the new pilot “opinion” process, we now complete cases in one of the following ways:

Resolved/withdrawn = *the person bringing the case decides not to pursue it (plus some cases which lapse for other reasons).*

Investigator's decision = *our investigator sends a letter giving a view on how the ombudsman is likely to decide the case, and the investigator's view is accepted by the parties.*

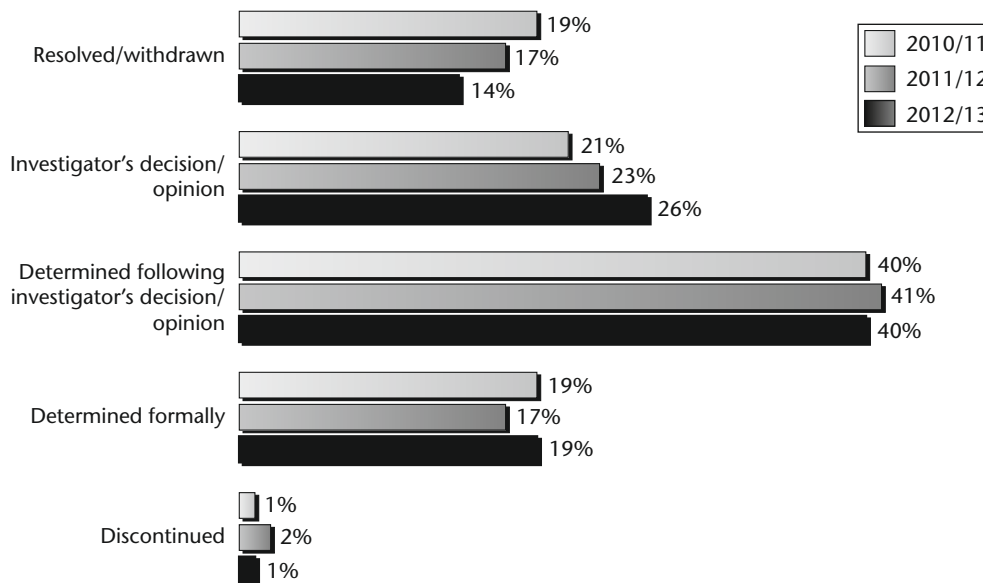
Investigator's opinion (currently being piloted) = *our investigator writes in a structured format giving their opinion on how the case should be dealt with, and the investigator's opinion is accepted by the parties.*

Determined following investigator's decision or opinion = *the investigator's decision or opinion is not accepted by one or more of the parties and the ombudsman determines the case. These decisions are not currently published, but may be in the future. Where an opinion has been issued a short form structured determination will be issued, rather than a determination letter.*

Determined formally = *an ombudsman issues a notice of preliminary conclusions or provisional decision inviting the parties to make submissions in response, which is followed by a detailed determination. We are currently piloting the new provisional decision format, which may replace the notice of preliminary conclusions. Formal determinations are published.*

Discontinued = *a few cases that are brought to a close, because for example the complainant has stopped co-operating.*

What we did with investigations



Investigation timescales

One of our aims this year, having got the caseload under tighter control in previous years, was to emphasise reducing the length of time it takes us to deal with cases.

We said in last year's annual report that we thought it would be difficult to significantly reduce timescales without additional resource. Whilst inflow and outflow of cases were not significantly unequal, there was a sticking point where cases wait in a "pool" to be allocated to the next available investigator. The delay was sometimes as long as six months, although the average was about four.

So during the year we submitted a supplementary bid to the Department for Work and Pensions for additional budget to secure temporary investigator resource. This was approved, up to an extra £167,000.

We were unable to spend all the extra budget we were given (we spent £119,000) because it took longer than expected to recruit the people we needed. We planned to close around 11% more investigations as a result, which we did. This was based on having the equivalent of 2.7 extra investigators over the year.

What we had not bargained on was that our incoming investigation workload would be 19% more than projected (12% counting the 68 associated cases as only one case because they involve the same issue). So in effect the extra output was outweighed by the extra incoming workload. Despite this, we did manage to reduce the average age of open investigations by a month and a half, and reduce by a month the average time it takes us to complete an investigation. We also managed to double the percentage of cases dealt with inside six months (20%). We were not able to make the full inroads into reducing case waiting times and more specifically the size of the 'pool' as we had planned. We will continue to focus on this in 2013/14.

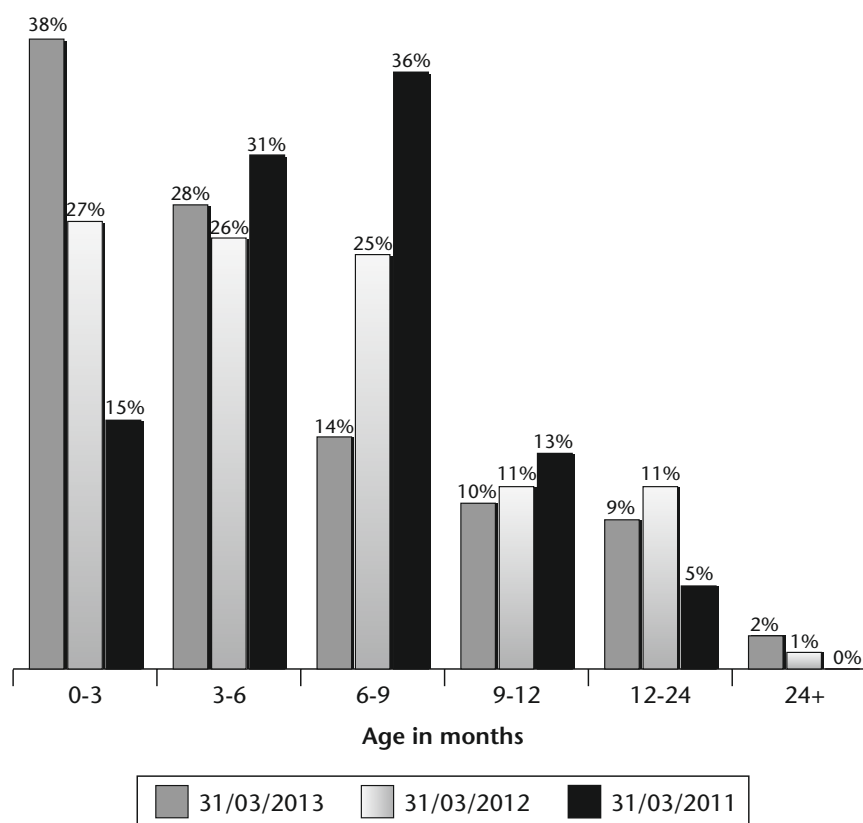
Ages of open and completed investigations over time

	2008/09	2009/10	2010/11	2011/12	2012/13
Average age of open investigations at 31 March in months	9.3	6.0	6.7	6.5	5
Average age of investigations at completion in months	18.5	10.9	9.8	10.6	9.6

Age of investigations at completion over time (percentages)

	2008/09	2009/10	2010/11	2011/12	2012/13
Under 6 months	6%	8%	8%	10%	20%
6 to 12 months	33%	68%	67%	58%	58%
More than 12 months	61%	24%	25%	32%	22%

Age profile of open investigations at 31 March 2011, 2012 and 2013



As the chart above shows, we have a higher percentage of “young” open cases and relatively fewer “middle aged” ones. The percentage of older cases has not changed markedly.

What the cases were about

Complaints to us often relate to things that happened many years ago. The subject matter of concluded complaints rarely therefore correlates to “hot topics” getting media coverage or subject to political or regulatory interest. So, for example, automatic enrolment does not feature – although it certainly will in years to come. Neither, as mentioned in the ombudsman’s introduction, does “pensions liberation”.

As to what the complaints are about, well the answer is very much business as usual, as we explain below.

We have been planning for some time to change the way we record the subject matter of complaints, not least because a significant number did not fit into any of the subject matter categories, and were unhelpfully recorded as 'other'. Our new case management system provided the opportunity to do this. And so when we went live in January 2013, we introduced some of the planned changes, but not all, because for three quarters of the year we had been using the old subject matter categories. We have mapped the last quarter of the year's complaints back to their old categories, but cannot say with the same degree of certainty as usual that our subject matter data can be accurately compared to previous years. For example, this year we have introduced a new 'injury benefit' category. These complaints would most likely have been included in the 'other' category previously, although some may possibly have found their way into the ill-health pension category.

Further changes were introduced at the start of the 2013/14 business year, so in our next annual report the complaint categories are likely to look quite different, and there should be far fewer cases in the 'other' category.

Looking at the data we have this year, the picture is pretty similar to previous years. Complaints about entitlement to an ill health pension remain the highest single cause of complaint (11%). But complaints about calculation of benefits, or incorrect benefits, were each the second highest, and represented a higher proportion of our workload than in previous years. In particular, this year, we have seen an increasing number of complaints where the member has been paid benefits they are not entitled to under the scheme rules, and the scheme has subsequently looked to recoup these. The approach we take in these cases is covered in three of the case summaries that follow.

Subject matter of completed complaints

	2012/13	%	2011/12	%	2010/11	%
Annuity	2	0	6	1	7	1
AVCs	13	1	7	1	24	3
Calculations of benefits	90	9	40	5	52	6
Contributions, refunds & queries	15	2	9	1	21	2
Spouse's and dependants' benefits	40	4	39	4	37	4
Early retirement pension	36	4	35	4	43	5
Equal treatment	0	0	1	0	0	0
Ill-health pension	106	11	87	10	110	13
Injury benefits	47	5				
Incorrect/no payments	83	9	25	3	15	2
Membership conditions	7	1	10	1	16	2
Misleading advice	67	7	46	5	46	5
Transfers	55	6	89	10	88	10
Winding up	10	1	4	0	5	1
Other	384	40	490	55	383	45
Total	955		888		847	

Case summaries

These examples of cases completed during the year, though based on real cases, have had details of the parties removed because they are very concise summaries not intended to reflect the detail of the circumstances or the full reasoning of the decision.

For simplicity we refer to “the ombudsman” whether the Pensions Ombudsman or Deputy Pensions Ombudsman dealt with the case.

Pension sharing on divorce

In this case, information was provided which the complainant and her spouse relied on when negotiating financial settlements on their divorce. Had they been given the correct information the outcome of their negotiations would not have been the same.

Pension sharing order implemented as at wrong date – spouse’s pension overstated

As part of her divorce settlement, a pension sharing order was made by the Court under which Mrs A was to receive 50% of the value of her husband’s pension. Information provided by the scheme about the value of the pension was used to decide how the pension would be split.

Mr A retired early from his employment. His deferred pension, payable from his 60th birthday, was enhanced by an addition to his service. Mrs and Mr A reached an informal agreement between them that she would also receive 50% of this enhancement. The administrators wrote to each of them with confirmation that the enhancement to his service would be included in the pension benefits for her. They gave details to Mrs A of her pension and lump sum.

The marital home was sold and Mrs A received a share of proceeds which was agreed between Mr and Mrs A with adjustments to the strict application of the consent order. By this time, she had received confirmation of the pension benefits payable from her 60th birthday, which she was happy with.

However, it was discovered that the pension split had been calculated at the wrong date and her correct pension was less than previously advised, mainly because the correct date was before Mr A was awarded the enhancement.

The ombudsman concluded that there had been maladministration. When Mr and Mrs A were in negotiations they were both given to understand that her benefits included 50% of the enhancement. It was entirely credible that this formed a material part of the negotiations. The ombudsman concluded it was very likely that there would have been scope for Mrs A to have negotiated a different, but equivalent, settlement or to amend the pension sharing order had she been aware of the true position. The scheme’s manager and administrators jointly deprived her of the opportunity to try and reach an agreement with her husband or an amendment to the order. The scheme’s manager was directed to ensure that she was provided with additional benefits to bring them to the level at which they would have been had Mr A’s enhancement been allowed for in the order.

Overpayments and wrong estimates

In the first and third of the following examples the complainants were paid money they were not strictly entitled to, whilst in the second the complainant spent money which she thought she was going to receive, only to then find that it was not due. They show that claiming reliance on an overstatement or overpayment of benefits very much depends on the particular facts. In the first case, the decision was that the complainant was rightly being required to repay the money, since he had benefited from reducing a liability and the method of repayment would not unduly affect the level of the pension he had always expected to receive.

In the second the complainant had spent money based on misinformation and should be compensated, whilst in the third, a direction was made for eventual repayment of part, which both parties were content with.

Overpayment of lump sum on retirement – repayment through withholding pension increases

A couple of years after he had retired Mr B was informed by the trustees that the lump sum he had received was more than the maximum he should have received by some £13,000 but that his pension had been underpaid, because too much had been commuted. The trustees sought to recover the overpayment by keeping his pension at its existing (lower) level without inflationary increases until the overpayment had been recovered, which was expected to be in about eight years' time.

Mr B brought a complaint to us arguing that he should not have to make any repayment. His case was that he had used the money (as well as other savings) to repay the mortgage on his partner's property, that this was a gift to her and that as she was unable to return the money he should not be liable for the overpayment.

The ombudsman decided that it would not be unconscionable for Mr B to have to repay the money as the redemption of the mortgage was to his benefit as well. He lived in the property, contributed to the outgoings (including to the mortgage when it existed) and had relieved his partner of a considerable liability. It was also significant that the method of repayment would not unduly affect the level of the pension that he had always expected to receive.

Misinformed that pension could be part commuted for cash – money spent in reliance on receipt

Mrs C complained that she was wrongly told in 2006, and again in 2010, by the scheme managers that she would be entitled to a lump sum by commuting part of her share of her former husband's pension.

In December 2009, shortly before the pension was due, she booked and paid a deposit on a holiday costing about £4,800. Before paying the balance she rang and asked how much cash she would receive. She said she wrote down that it would be £26,000. The scheme manager had no record of the call.

When she got back, having spent a further £2,000 or so while she was away, she was informed that she was only entitled to a pension and not a lump sum. She said that she would not have booked the holiday but for the maladministration. The scheme managers apologised for the misinformation but did not consider that her having paid for the holiday constituted a change of position.

The complaint was upheld against the scheme managers because they misled Mrs C and her expenditure on the holiday was a reasonably foreseeable consequence of that maladministration. (The ombudsman found that her account of the telephone conversation was accurate and that if she had been correctly informed she would not have paid the balance of the cost of the holiday.)

Simply awarding her the cost of the holiday would have meant that she would in effect receive it twice as she had started receiving her pension, which would have been reduced if she had been entitled to a lump sum. The ombudsman decided that appropriate compensation would be a sum that would allow Mrs C to put herself in the position she should have been in, being an amount not less than the cost of borrowing the holiday money and repaying it from her pension over time. While a precise calculation was not possible, the ombudsman considered that £2,500 was adequate and directed it to be paid in addition to a sum of £500 for distress which had already been paid.

Policy ascribed to wrong policy holder, who then made claim on it

As part of an industry review Miss D was sent details of a personal pension which the insurer mistakenly thought belonged to her. She made a claim on the policy, recalling an entitlement from employment many years before and received a lump sum of £700 and a small monthly pension. The lump sum was used to pay arrears on her mortgage and so to avert the repossession of her property.

A few years later the insurer discovered that the policy holder was another person with the same name and attempted to reclaim the lump sum (but not the pension paid to that point). Miss D was in financial difficulties and was unable to repay the money. As the mistake was due to the insurer's oversight it was suggested to the insurer that only part of the overpayment should be recovered, which it accepted. But Miss D was still unhappy because she was unable to make any form of payment. We were puzzled about the whereabouts of her actual policy, for which she had a statement with a different insurer no longer in business, and suggested how she might trace this. She was successful and as her policy was due to mature in a few years' time and would cover the suggested amount the ombudsman directed that the insurer should not take steps to recover the money until the policy matured. Both sides were satisfied with that direction.

Increases to pensions in payment

The common theme in these complaints is the expectation that, because pensions have increased in a certain way in the past, they should do so in future. However, in each case the scheme rules enabled the method of increasing pensions to be changed, and a mere expectation that past practice would continue did not give the members a lasting entitlement to increases at past levels.

Past practice of paying discretionary increases stopped after takeover

For 15 years before being taken over by another company, the former principal employer had exercised discretion by increasing pensions attributable to service before 6 April 1997 by the increase in the retail prices index (RPI), capped at 5%. This practice was reflected in a booklet published in 2004, which did not distinguish between pre and post 6 April 1997 pensions. The booklet contained a disclaimer to the effect that the Trust Deed and Rules prevailed in the event of conflict between their provisions and the booklet. It was not provided to Mr E although it did appear on the Plan's website. Other booklets apparently correctly referred to increases on pre 6 April 1997 pension being discretionary.

In February 2008 the chairman of the trustees replied to a letter from Mr E about future increases. He said the trustees had obtained a binding commitment from the new principal employer to inject funds into the Plan and expressions of support for the Plan, with no indication that they would wish to alter any aspect of it. But the trustee had not asked to convert any discretionary policies into legally binding commitments.

In 2008 the discretionary increase on pre 6 April 1997 pensions in excess of guaranteed minimum pension was 5% - the same as the increase under the Rules for post 5 April 1997 pensions. In 2009 the principal employer commissioned a report in the light of a substantial deficit. The report considered a package of options, including no longer paying discretionary increases. The principal employer took legal advice, which said that in the absence of a contractual commitment, there was no obligation to provide a particular level of discretionary increase. The management team decided to stop discretionary increases. There was a meeting of the trustees where the pensions manager told the trustees that the company was not expecting to pay a discretionary increase.

At a further trustees' meeting the principal employer's decision not to award a discretionary pension increase that year for service prior to April 1997 was confirmed.

Mr E complained about the decision. He also complained about other issues, including the time taken to deal with his complaint.

The complaint was not upheld against the employer or the trustees. The employer reached a decision that was not irrational, perverse, or in breach of its obligation of good faith. The trustees acted properly in relation to the increase decision and the funding for increases. The time taken to deal with Mr E's complaint was reasonable. Any delay in provision of information or inaccuracy in the calculation was only of very minor inconvenience or financial harm. The ombudsman did, however, recommend that the trustees take a proactive stance in providing information to members.

Change from retail price index to consumer price index

Mr F complained that he was led to believe his early retirement pension would be increased annually in line with the retail prices index (RPI). He said that if he had been made aware that there were no such guaranteed increases to his pension in payment he would have deferred taking it until his normal retirement age.

When the Government decided to change the basis by which public sector pensions are increased to the consumer prices index (CPI), the change automatically applied to Mr F's pension. Mr F said that the wording in a booklet clearly said pensions would continue to be increased in line with RPI. He also said that any rational observer would say there was no way of changing it to express that more clearly than it already does.

The ombudsman did not agree with Mr F. The booklet said pensions would increase in line with the percentage increase in retail prices but there was no reference to any particular index. A casual reader might have assumed that the measure would be RPI, because of the mention of retail prices. But any measure of retail price increases, which included CPI, would satisfy the statement in the booklet.

Mr F may have believed that his pension would always increase in line with RPI, but there was no evidence he based that belief on any document that actually said that. Neither was there any evidence he would have behaved any differently if he had known that a different price index could be substituted.

Capping of discretionary increases – previous Court action

Mr G's pension received yearly increases in line with the retail prices index (RPI) until 2006, when the employer announced it was capping discretionary increases.

There had been a High Court action about the matter. Mr G was not a party to the claim but provided a witness statement and gave evidence at the trial. The judgment of the Court left room for claims based in estoppel on their individual circumstances.

Mr G said that he opted to have a large redundancy payment and AVCs paid into the scheme in reliance on two statements by the respondents and a common understanding that increases would continue to be linked to RPI in line with past practice. He also complained that the fact conversion rates used to calculate his pension had assumed increases would be based on RPI amounted to a commitment this would continue to be the case.

His complaint was dismissed. The ombudsman held that neither statement by the respondents amounted to an unequivocal promise or representation. Even if they had, the member had not relied on them since his decisions were based on his own assumptions that past practice would continue. An expectation or assumption that, because things had been done in a certain way in the past they were likely to continue in the future, could not in any way be sufficient to show reliance on a promise or statement. The assumptions used in calculating conversion rates could not provide a guarantee as they were merely the scheme actuary's "best estimate". Mr G had been aware of scheme literature, which stated that increases were discretionary; there was no common understanding that RPI linked increases would continue without restriction.

Compromise agreements

The next two complaints concern enhancements to be provided to pensions. Both applicants had signed compromise agreements with their former employers on leaving their employment, the effect of which was to limit further claims against their employers (though not in relation to pensions, in the second case). As with the cases involving increases in pensions, both parties had an expectation about how their pension would be calculated, but that expectation was not enough to amount to a legal entitlement. Complainants may feel aggrieved that an employer's "promise" turns out not to be a promise at all, but unless all the requirements for a contract or estoppel are met, a statement is not enough to provide legal entitlement.

Proceedings against employer compromised – complaint directed to trustees

Mrs H's employment had been terminated under a compromise agreement. She said that she had been led to believe there was scope for her benefits to be enhanced under the scheme rules. She also said that she had signed the compromise agreement on the understanding that the trustees would then enter into discussions with a view to enhancing her benefits.

There was discretion in the scheme rules for retirement benefits to be enhanced, but this was exercisable by the employer not the trustees. The employer declined to exercise its discretion to enhance Mrs H's benefits.

Mrs H was unable to complain about the employer because of the compromise. Her complaint was directed against the trustees. The ombudsman found that the trustees had calculated Mrs H's benefits in accordance with the scheme rules. It had been appropriate for the trustee not to be involved in the negotiations between Mrs H and her employer in the period running up to the compromise agreement. There was nothing to prevent the trustees providing information and that had been done in the form of benefit statements (which did not include any enhancement). There was no evidence the trustees had led Mrs H to believe that they would enter into discussions after she signed the compromise agreement. The ombudsman found that the trustees were not responsible for anything which might have been said, or not said, by the employer's solicitors. Mrs H had made assumptions, which had led her to believe that the trustees could unilaterally enhance her benefits. It was her assumptions rather than maladministration by the trustees which led to the situation. The ombudsman agreed that a newsletter issued two years previously had not adequately explained the scheme rules. However, the situation had been clarified by subsequent correspondence and the newsletter was unlikely to have contributed to Mrs H's misapprehension at the time she signed the agreement. The complaint was not upheld.

Statement by employer about maximum early retirement reduction – not binding following compromise agreement

At the time of Mr I's redundancy it was agreed that employees being made redundant would have a maximum 3% a year penalty if they took early retirement as deferred members. Letters from the employer stated that and offered Mr I a compromise agreement with the employer under which he would receive a redundancy payment. Mr I signed the agreement (which did not preclude claims about pension rights) after obtaining legal advice.

When, three years later, Mr I sought early retirement at age 50, the trustees informed him that the principal employer had decided not to give consent on the basis of a 3% reduction factor, but on a less generous basis.

The ombudsman did not uphold the main part of the complaint. Early retirement required the principal employer's consent, which was not given. A deferred member had no automatic right to an early pension on particular terms. Mr I had no choice about taking redundancy, so did not waive his rights under his employment contract. He had not accepted a reduced pension in return for taking redundancy as deferred pensions were always reduced on early retirement. The statement concerning penalties was not contractual, nor a misrepresentation that induced him to sign the compromise agreement; the only alternative was to take far less favourable compulsory redundancy.

But the statement in the first letter was incorrect in indicating he would be entitled to a certain reduction factor, without reference to the need for the principal employer's consent. This was maladministration that had raised his expectations and caused him distress and the ombudsman therefore directed compensation of £250.

Ill health early retirement

Here are two examples of common errors made when dealing with requests for ill health early retirement, in particular the failure to follow procedure, to obtain the correct medical evidence or to make the decision correctly once that evidence was obtained. In the second case, where the applicant was 30 years away from normal retirement, the permanency or otherwise of her condition was difficult to assess. But that made it all the more important to ensure that the decision was made correctly, having regard to all relevant factors. They both relate to the same scheme.

Improper use of medical adviser previously involved

Mr J was a member of the Local Government Pension Scheme. He applied for ill health early retirement. Decisions on ill health retirement are made by the employer following advice from an "independent registered medical practitioner" (IRMP). It is a requirement that the IRMP should not have previously been involved in the matter (subject to one exception).

Mr J was awarded a "Tier 3" pension (given where a member is permanently incapable of undertaking their previous employment, but will be capable of undertaking some gainful employment within three years). Such pensions are reviewed after 18 months and discontinued after three years, but before a Tier 3 pension is discontinued, the employer must carry out a review to see whether a higher tier pension can be awarded.

Mr J's case was reviewed and was referred to the same IRMP. That should not have happened. The employer was now considering whether Mr J was eligible for Tier 2 benefits. This required a certificate from a different IRMP, who had not previously been involved. So the certificate was invalid – as, therefore, was any related decision by the employer. The fact that it was delayed and Mr J had to continue in uncertainty since early 2012 caused him further distress. The ombudsman directed the employer to obtain a certificate from a new IRMP and consider Mr J's application wholly afresh. If it determined that Mr J met the Tier 2 criteria, he was to be paid the appropriate pension from the date at which he met the criteria, with interest. The ombudsman could not express a view as to whether Mr J should be entitled to a Tier 2 pension; that was for his employer to decide. But it had to decide that properly, in accordance with the regulations.

Mere existence of untried treatments does not show condition is not permanent

Mrs K, a member of the Local Government Pension Scheme, went on long-term sick leave in 2008. In June 2009 an "independent registered medical practitioner" (IRMP) concluded that it was too soon to advise that she was likely to remain unfit for her work until age 65 and there was a reasonably good prospect that her condition would eventually improve sufficiently for her to return to gainful employment. Of the medical records considered, only her occupational health record commented on permanency or treatments. Her employer accepted the IRMP's recommendation and terminated the employment without granting an ill-health pension. Mrs K appealed. A report from her rheumatologist stated that although there were a number of treatment options none would be expected to cure her condition. It would not be possible to reliably predict permanent incapacity at that stage. Another report said her condition was unlikely to improve to the extent that she would be able to work during the next three years, but she might make a recovery of some sort in due course. A second IRMP advised that there was a reasonable prospect of Mrs K being able to return to work in the longer term, noting that she was only 35 and further treatment options might be available. Mrs K's appeal was denied on the basis there were no grounds for permanent incapacity as she had not exhausted all treatment possibilities.

The ombudsman upheld the complaint. The decision to reject her application on the grounds that there might be untried treatments that might help her return to work was incorrect. The employer should have clarified whether there were future treatment options and, if any were identified, it should have considered whether Mrs K's ill-health was likely to be permanent if those treatment options were undertaken. The ombudsman remitted the decision to the employer, directing it to obtain any further reports it might need.

Transfers

Complaints about delays in transfers, between schemes or in the form of an "open market option" to buy an annuity, form a significant proportion of our work. Unusually, in the case that follows, the value of the pension was paid out earlier than the complainant intended.

Open market option not payable before the retirement date under the policy

Mr L complained that following an application to buy an annuity on the open market, his pension provider transferred his pension to another provider before 1 April 2011 (his retirement date under the policy) and that as a result, he received a lower lump sum and pension that he would otherwise have done.

In advance of Mr L reaching his retirement date of 1 April, the provider sent a quotation of his benefits and the open market option calculated as at 1 April. Mr L made an open market option application on 21 March 2011. Mr L did not specify that the transaction should take place on any particular date. It was processed by his provider, being finalised on 28 March 2011.

The policy value was lower than had been previously quoted because the bonus rate applied was lower than the bonus rate that was due to come into effect from 1 April 2011. If it had been paid on 1 April, the lump sum payable to Mr L would have been £818.60 more than he actually received, and the sum paid to buy his annuity would also have been greater. The provider said that the application was processed as soon as possible because had they delayed, they might have unwittingly disadvantaged Mr L.

As part of our investigation we established that the policy only provided for an open market option (which it was clear was what Mr L had applied for) to be paid on the retirement date under the policy.

The provider was directed to pay to the new provider the amount required to bring Mr L's annuity up to the correct level; pay Mr L the total monthly shortfall in payments that he should have received since the first payment was made, with interest added; pay him the amount of £818.60 plus simple interest; and pay £200 compensation for the distress and inconvenience he suffered.

Self invested personal pensions

Members of self invested personal pensions may find that their investments have not performed as they wished. Whether this is anyone's fault, and if so whose, is not a straightforward matter. (Normally complaints about regulated advice are for the Financial Ombudsman Service to deal with).

Administrator/trustee not liable for failure of property investments

Mr M complained that the administrator and co-trustee of his self invested personal pension (SIPP) had failed to carry out due diligence on property related SIPP investments recommended to him by his independent financial adviser, before allowing the investments to proceed. Nor did they monitor the performance and security of those investments.

Mr M said that had the administrator and co-trustee done so he would have not lost around £300,000 in his SIPP when these investments subsequently failed.

The ombudsman did not uphold Mr M's complaint because it was clear that the three failed investments had been made by Mr M on each occasion only after he had received and accepted the advice of his financial adviser and that they were all made before a Financial Services Authority report on SIPPs in September 2009. The investment decisions had therefore been made by Mr M when there were lower expectations and the duty to undertake due diligence on investments was less stringent. The basic due diligence checks which the administrator and co-trustee undertook at the time were sufficient to meet the requirements imposed on them by her Majesty's Revenue and Customs for such investments.

Record keeping

The Regulator has required schemes to audit the quality of their data. This complaint shows why that might be necessary.

Lost records leading to delay – death benefits affected

Mrs N resigned from her post in 2000. Her employer's "superannuation section" wrote to her in January 2001 giving details of her preserved pension based on service of 29 years and 226 days. The letter informed her that any application for early payment of a preserved award should be made to the superannuation section at an address in London. She was also given an address to which enquiries about the scheme generally should be sent. In October 2002 a new paying agent and scheme administrator were appointed. In 2003 the employer ceased to exist, being merged with another government department and in 2007 it was renamed. Mrs N was not informed of any of these changes.

In March 2009 Mrs N was told that she had terminal cancer. She wrote to her former employer saying that she wished to apply for early payment of her pension on the grounds of ill health, but did not receive a reply. Her husband was told by both the paying agent and scheme administrator they had no records of his wife. He was referred to another official who asked for further information about her, which he provided.

Mrs N died in June 2009. Mr N then received a pro forma for him to complete with further information. An official subsequently told Mr N that his wife's records had been located in the employer's Leeds office.

Mr N complained that if his wife's records had not been lost, she would have been in receipt of her pension before her death and when she died the different rules applicable would have led to a higher payment.

The ombudsman upheld the complaint because (a) there was a failure to transfer Mrs N's records correctly in 2002 and maintain accurate records after then and (b) the statutory duty to inform her of changes in administration arrangements had not been complied with. The direction was that there be a calculation of the amount that would have been paid to Mrs N's estate (and thereafter to Mr N as her beneficiary), had the application been processed before Mrs N's death, with a payment to him equal to make up the shortfall, together with interest. Each respondent should separately apologise to Mr N for the unnecessary distress caused to him and make a payment to him of £250 in respect of this.

Mediation and resolution

As we explain earlier in this report 41% of cases were dealt with without reference to an ombudsman. The first of these two examples is one in which almost the mere fact of our involvement brought matters to a close (without us needing to express a view on what the "right" outcome would have been). The second is one in which the investigator expressed an opinion which was accepted by all parties.

Annuity wrongly set up as a result of information provided

Mr O complained about the managers of his pension plan, because they gave incorrect information at the time his annuity was set up. He purchased an annuity through the open market option and when this was set up, his pension rights were wrongly classed as unprotected instead of protected. As a result, Mr O was overpaid from the annuity but felt that he should not have to return the overpayment, which had not arisen as a result of his actions.

When we provided details of his complaint to the managers to comment, they responded by offering to reimburse the overpayment and make a payment of £200 in respect of the distress and inconvenience caused to Mr O. The investigator forwarded this offer to Mr O and advised him that they appeared to be offering a settlement along the lines he had sought in his complaint. In light of this, she invited Mr O to say whether this settled the matter for him. Mr O said that he would accept the offer. There was accordingly no need for the investigation to be pursued and the matter was closed.

Maximum alternatively secured income briefly overstated

Mr P had a personal pension from which he was drawing income. In April 2011 the provider gave Mr P's financial adviser incorrect information about the annual amount that he could withdraw. The figure was too high. The reason was that the limits had changed under the new tax rules for unsecured pensions and, although they should have been applied to Mr P's maximum income calculation, they were not. The provider immediately wrote correcting their mistake.

Mr P said that he had been relying on the higher figure to repay certain loans.

The investigator wrote to Mr P explaining what had happened, and saying that he did not think that Mr P's position that he had been relying on the figure was supported by the evidence. He explained the normal approach to payments for distress and inconvenience and said that the modest sum already offered by the provider was reasonable.

However reluctantly, Mr P accepted the investigator's view – and the compensation payment.

The courts

Appeals

Determinations of the Pensions Ombudsman are final and binding subject to appeal on a point of law to the appropriate court. In England and Wales it is the High Court, in Northern Ireland the Court of Appeal and in Scotland the Court of Session.

	2011/12	2012/13
Appeals outstanding at the start of the year	6	4
New notices of appeal	12	10
Appeals heard/settled/withdrawn during the year	14	10
Appeals remaining at the year end	4	4

Participating in appeals

Our general policy is not to participate in appeals other than where it would assist the court for us to do so and/or where there is an issue of wider importance – in particular one that may impact on jurisdiction or process.

Such participation is relatively rare. We participated in one appeal this year: *East Lancashire Primary Care Trust v Leach and another* ([2012] EWHC 3136 (Ch)). The last time we participated before that was in 2009.

The appeal concerned the appropriateness of the remedy awarded by the ombudsman. We participated because the appellant asked for the case to be considered by a different ombudsman if the appeal succeeded. This would have been an issue of importance to the way we work. We did not want it to be the default position that the same ombudsman is not capable of taking a fresh look at a case that is remitted by the court.

The judge upheld the appeal but declined to make any direction about remitting the case specifically to a different ombudsman. In substance the judge's view was that the possibility of doing so arose only if the case had been "completely mishandled" or there was "bias, partiality or prejudgment".

A long running case

The decision in the case of *Molyneux v Department for Children, Schools and Families* [2010] EWHC 263(Ch) referred to in our last two Annual Reports now stands. Mrs Molyneux had intended to apply to the Supreme Court for leave to appeal against the Court of Appeal's decision, but was refused legal aid and decided not to pursue the case. This is only the sixth (reported) case which has gone to the Court of Appeal concerning a pension ombudsman's decision since 2000, and none has ever gone to the Supreme Court (or the House of Lords before it).

A recurring problem

In previous years we have mentioned that we are frequently wrongly named as a respondent to an appeal. This continues to be a problem making work for the office and for the courts. Usually, once the error is pointed out the applicant takes the necessary steps to regularise the position, but litigants in person are less likely to accept what we say, and on two occasions this year insisted that they would only act following a direction by the court. As it happened, both applications came before the same judge in quick succession, resulting in him writing to us about the problem. Our response was to take steps to explain in more detail in our guidance material that we should not be included as a party to an appeal. But we did explain to the judge that despite our best efforts when a party is appealing against a decision of ours that they regard as wrong, they may not be comfortable accepting our steer.

Other observations and unusual developments

When an appeal has been upheld and the case remitted back to us the successful party understandably wants us to press on with the case as quickly as possible. One difficulty is that if the judgment is unreported, it can take a good while for the appellant to obtain a transcript. But without a copy of the judgment we do not know for certain the errors of law found by the judge and/or the reasons for the remittal. Without the transcript (which is for the successful party to obtain) we are unable to take the action directed by the judge, which can be frustrating for the parties.

Unusually, in an appeal against one of the Deputy Pensions Ombudsman's determinations (*Helen Carroll v (1) Royal Mail Pensions Trustees (2) Royal Mail Group Limited* [2012] EWHC 3076(Ch)), the appellant questioned the Deputy Pensions Ombudsman's power to deal with her complaint in the first place. As the issue was only raised during the course of the court hearing and had not been raised during the investigation, or in the appellant's skeleton argument, the respondents were unable to answer the point fully at the hearing. Following the hearing (but before judgment) they approached us for a copy of the terms of Deputy Pensions Ombudsman's appointment, which was then forwarded to the judge. This satisfied him that the Deputy Pensions Ombudsman was acting with the consent of the Secretary of State. In

any event, though, he observed that he would not have allowed this ground of appeal as objections to jurisdiction should be taken promptly (in fairness to the other party) which had not happened in this case.

Judicial Reviews

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

	2011/12	2012/13
Judicial reviews outstanding at the start of the year	1	3
New Judicial Review applications	3	0
Judicial Reviews heard/settled/withdrawn during the year	1	3
Judicial Reviews remaining at the year end ¹	3	1

The number of judicial review applications fluctuates from year to year. Last year we received three, but this year we received none.

Challenging our jurisdiction – acting as an administrator

One of the applications heard in 2012 concerned a decision to accept a complaint for investigation, and centred on whether the respondent to the complaint (the Government Actuary's Department – GAD) fell within our jurisdiction as an administrator in relation to its actions prior to April 2005 in respect of the Fire Fighters' Pension Scheme. Under "New enquiries" above, we refer to receiving a significant number of enquiries during 2011/12 concerning the Fire Fighters' and Police Pension Schemes – this is one of those.

The case came before Mr Justice Ouseley in June. He upheld our decision.² GAD applied for leave to appeal which the judge refused and GAD then applied to the Court of Appeal for leave. This was granted in February 2013 and the appeal will be heard in July this year which is why it appears twice in the above statistics - once as having been heard and the second time as remaining at the end of the year. This will be the first judicial review of an ombudsman decision to reach the Court of Appeal since the case of *Britannic Asset Management Limited and others v Pensions Ombudsman* [2002] EWCA Civ 1405 in 2002.

Challenging our decision to investigate

Our jurisdiction to investigate a complaint involving a separate issue concerning the Police Pensions Scheme was also challenged. We mentioned this in our Annual Report last year. The proceedings were eventually withdrawn. A preliminary ombudsman decision upholding the complaint had been issued, but could not be finalised whilst the judicial review proceedings were pending. The complainant, who had pressing financial concerns, was left in limbo in the meantime, but once the application was withdrawn we proceeded to a final determination upholding the complaint. As the case never came to a hearing the issues raised have not been decided by the courts. However, as the application was withdrawn, and as the determination has not been appealed, the police authority has effectively accepted our views on the extent of our jurisdiction in relation to the scheme.

¹ One case appears twice due to it being appealed

² Government Actuaries Department v Pensions Ombudsman [2012] EWHC 1796 (Admin)

Challenging our decision not to investigate

In the third case the complainant issued a small claims summons in the Sheriff's Court in Scotland, rather than judicially reviewing our decision not to accept a complaint for investigation. It remained outstanding at the start of 2012 and was therefore included in the number of judicial review applications outstanding at the beginning of this year. It was withdrawn, but only after various procedural stages had been passed. To engage in the process we needed to instruct Scottish lawyers to act for us and, although we were advised that the procedure adopted was incorrect and resisted the claim for that and other reasons, our involvement inevitably resulted in costs being incurred unnecessarily which we were not able to recover from the applicant.

PO – Section 150(7) application

This case, which has been mentioned in previous annual reports, was heard before Mr Justice Briggs in November 2012. The Pensions Ombudsman exercised the power given to him under section 150 (7) of the Pension Schemes Act 1993 to refer a question of law to the court. The question was whether the principles discussed in the Court of Appeal case of *Edge v Pensions Ombudsman* [1999] All ER(D) 904 applied to the circumstances of a complaint referred to us. The issue was whether, because a determination by the Pensions Ombudsman would affect the interests of third parties, (in this case a parent company which had paid a sum to the trustees of the scheme to compromise the liabilities of its subsidiaries), we must decline jurisdiction to investigate and determine the complaint, or whether we retained a discretion to deal with it. The judge found that the principles in the Edge case applied, and that it would not be proper for us to assume jurisdiction of the complaint.³ It was then for the Ombudsman to decide on the next step and in the light of the judgment he exercised his discretion to discontinue the complaint.

³ The Pensions Ombudsman v EMC Europe Ltd and Ors [2012] EWHC 3508 (Ch)

2.2 Pension Protection Fund Ombudsman casework review

What we can investigate

Reviewable matters

We can review decisions made by the Board of the PPF, but only after they have been reviewed by the Board of the PPF and then considered by their Reconsideration Committee. In previous years all the reviewable matters have concerned the amount of the levy. How the individual levy calculation has been carried out is a matter we can deal with. The general calculation method is not. This year however we received a complaint where a scheme member of a scheme entering the PPF said that the PPF should not have accepted the valuation of the scheme's assets under section 143 Pensions Act because it was contrary to the Insolvency Directive.

PPF maladministration

We can investigate and determine complaints of maladministration on the part of the PPF. For example this year we have been asked to investigate complaints about calculation of correct entitlement.

Financial Assistance Scheme (FAS) appeals

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

Our workload

	In hand at 1/4/12	New complaints	Accepted for investigation	Not accepted for investigation	Completed by investigation	In hand at 31/3/13
PPF Reviewable matter	12	33	12	21	15	9
PPF maladministration	1	7	2	5	3	0
FAS appeal	4	15	5	10	3	6
Total	17	55	19	36	21	15

The number of new complaints rose this year, but this was perhaps not surprising since last year we received an unusually low number of new complaints, only 24 in total. The number this year is nearer to the norm, if there is such thing as a norm with such a small workload. Amongst the number of complaints received this year was a batch of 15, where the individuals said they were "affected" by the decision due to be reached in a reviewable matter already being considered. (The case is the one mentioned as an example of "Reviewable Matters" above.) The member says the PPF should not have accepted the valuation of the scheme's assets. The method used for valuing scheme assets is as set out at section 143 of the Pensions Act 2004. If the valuation is accepted and the scheme goes into the PPF the members will be subject to the PPF's benefits cap. The PPF say they have no discretion over how the scheme is valued. The way the cap operates is set out in the legislation that governs the PPF. This case was still being dealt with at the year end, and so is not covered further in this report. As the 15 cases did not need to be separately accepted for investigation this accounts for the higher than usual number of reviewable matters not accepted for investigation this year.

Possible changes

We mentioned in our Annual Report last year that draft regulations were being consulted on to transfer jurisdiction for dealing with complaints of maladministration against PPF as scheme manager of the FAS from the Parliamentary Ombudsman, to the Pension Protection Fund Ombudsman, to bring everything together. We already deal with FAS appeals. There have been no further developments in 2012/13, and so as it stands the Parliamentary Ombudsman still retains jurisdiction for dealing with these complaints.

Following the 2010 Cabinet Office Review of Public Bodies it was agreed that the separate statutory offices of Pension Protection Fund Ombudsman and Pensions Ombudsman (and respective deputies) would be combined. Again there have been no further developments during 2012/13, and so at this time the two statutory offices remain separate.

Case summaries

As with the Pensions Ombudsman case summaries, reference to “the ombudsman” means whichever of the Pension Protection Fund Ombudsman and the Deputy Pension Protection Fund Ombudsman dealt with the case.

Scheme missed deadline for submitting contingent asset certificate

The scheme trustees referred a reviewable matter to us. It concerned the submission of a contingent asset certificate. Where the PPF accepts that the scheme risk is reduced because there is a contingent asset backing the scheme this reduces the amount of the scheme levy.

The PPF had accepted a contingent asset certificate in 2006, in the form of a guarantee from the parent company. The contingent asset was re-certified online for the following three years. In 2009, the scheme accepted a transfer from another scheme of the same employer and, at that point, became a sectionalised scheme. The PPF required the two sections to be treated as separate schemes. The scheme administrators re-registered the two sections and they were given new reference numbers. The previous online record for the scheme was disabled and it was no longer possible to recertify the contingent asset online. During discussions with the scheme’s advisers, the PPF explained that the scheme would now be treated as a new scheme and that it would be necessary to resubmit the necessary documentation to register the contingent asset. They advised that the existing documentation could be used provided that it met all the necessary requirements. The required documentation was submitted, but it did not arrive before the published cut-off date.

The ombudsman found that the scheme (now a section) was a new scheme from the time of the transfer. Therefore, although the contingent asset had been recognised in previous levy years, it had not been recognised for the purpose of calculating the section’s levy. The ombudsman found that the PPF rules did not allow for recognition of the contingent asset on the grounds that it had been recognised in previous years because the scheme was not the same as the section for these purposes. The contingent asset could not simply be recertified.

The ombudsman then considered whether the PPF should have exercised discretion to accept the documentation which had arrived late. Because submitting a contingent asset certificate is voluntary, the absence of the certificate did not mean that the data used to calculate the levy was incorrect in a material respect. There was a discretion to recognise the contingent asset (but no obligation or statutory requirement). As the PPF had exercised its discretion in the proper manner the ombudsman did not find in the applicant’s favour.

Annuity held by the trustees is a scheme asset

Mr Q appealed against the FAS' decision to transfer his annuity to the FAS. He believed that although the annuity concerned was issued to the trustees of the scheme, with themselves named as policy owners, it was held on trust for him and his wife, and that therefore it should not be transferred to the FAS.

The ombudsman did not uphold Mr Q's complaint because he took the view that his annuity was an asset of the scheme, because the trustees owned the policy. And therefore the FAS did nothing wrong when they transferred it into the FAS.

PPFO appeals

This year the PPF appealed a determination concerning a determination of a reviewable matter under the PPF jurisdiction (a levy calculation). Although, as with appeals against Pensions Ombudsman determinations, it would not generally be appropriate for us to participate, in this case we consider the appeal raises some issues that go to our jurisdiction and powers. The case is due to be heard in October and we intend applying to the court to be joined in the proceedings.

2.3 Our people

Our staff are the key to successfully carrying out our statutory task in line with our aims and principles. We are fortunate to have a committed and skilled team. Overall levels of satisfaction (as revealed in our annual survey, see below) are high, and turnover is low.

Staff levels

Full time equivalent	At year end		
	2010/11	2011/12	2012/13
Actively in post	34.95	34.07	33.10
On long term leave	–	1.00	1.60
Vacancies	0.70	1.00	1.00
Total	35.65	36.07	35.70

The figures above do not include either of the Ombudsman or the Deputy Ombudsman, neither of whom are employees. Details of their office and remuneration are in section 4.1.

We made a deliberate decision in 2007/08 to reduce our numbers. Since then our “establishment” has, as the table above indicates, stayed roughly the same. However, in 2012/13 in addition to the employees above, as mentioned in section 2.1 we contracted temporary investigators – being the equivalent of 4.4 full-time equivalent staff at the year end (and amounting to 2.7 extra investigators averaged over the year).

Of the 33.1 full-time equivalent staff actively in post at the year end, 28.9 were involved in casework as investigation assistants, investigators or managers (with two substantially employed in special IT related matters – see section 2.4). Our business support team dealing with governance, finance and payroll, human resources, general IT and other administrative support consisted of 4.2 full-time equivalent.

Staff satisfaction

We have carried out staff satisfaction surveys towards the end of the year for the past three years. Taken as a whole the results have been improving over the years and, though they have not been formally set against a benchmark, they appear to compare reasonably with other organisations. There are over 60 questions under 12 headings, so it would not be practicable to set out the results in full here. But some selected responses are:

- Positive propositions about objectives and purpose were agreed with by between 81% and 97% of those responding, depending on the question. So, for example, 97% agreed that they understood how their work contributed to our objectives (91% two years ago). And 81% agreed that they got the information they needed to do their job well (68% two years ago).
- Positive statements about engagement (pride in the job, personal attachment to the office and so on) received on average 59% agreement compared with 48% two years ago but down slightly from 61% last year.
- No doubt partly as a reflection of our size, only 16% of respondents agreed there were opportunities for career development within the office (lower than the 21% last year and 18% the year before). But whereas 62% had actively disagreed two years ago, this year and last the percentage that neither agreed nor disagreed has been much higher.
- On leadership and change, 68% of those responding agreed that the office was well managed, compared to 55% last year and 50% the year before. 72% had confidence

in the management team's decisions (up from 42% two years ago). However, although up from last year, only 39% thought that changes were usually for the better, with 52% neither agreeing nor disagreeing that they were.

- In general, questions about performance management indicated a high level of agreement that the employee's own performance was recognised and fairly assessed, with meaningful feedback given (positive responses averaged at 71% compared with 59% two years ago). But respondents were not confident that poor performance in others was dealt with effectively. About 30% agreed that it was, in each of the three years, with the largest proportion neither agreeing nor disagreeing (perhaps because such matters are confidential).
- 78% of respondents on average agreed with positive statements about inclusion and fair treatment (67% two years ago). But although 69% agreed that the office respected differences, 25% actively disagreed, with only 6% having no view.
- A very small number of people (fewer than last year, but just one would be too many) reported experience of behaviour perceived as bullying and/or discrimination, either from colleagues or the public.
- Whilst 83% of those responding believed that the management team would take action based on the survey, 26% did not agree that it was safe to challenge the way that things were done in the office.

So whilst many of the responses were positive, there is more to be done around development opportunities, understanding bullying, harassment and discrimination, change management and openness to challenge.

Sickness

Average sickness per head was 2.7 days, which included one long term absence (3.2 in 2011/12 and 3.3 in 2010/11).

Pay

Pay had not been increased for the two years to 2011/12 under the public sector pay freeze. In the reporting year we were bound by Treasury guidance to limit consolidated increases to 1% of payroll overall. After consultation with staff it was agreed that there should be a 1% increase across the board for all staff. In addition, modest non-consolidated awards for higher performance were paid, amounting to 1.04% of payroll.

Consultation and negotiation

Our staff communication forum met six times in the year. It consists of elected representatives from "constituencies" of staff, plus representatives of the management team. During the year it discussed and, where appropriate, agreed action on (amongst other things):

- career development;
- team working;
- bullying, harassment and diversity awareness;
- pay awards;
- productivity information;
- information security.

Through the year discussions continued with the Public and Commercial Services Union towards voluntary recognition. The final decision was left to staff, with a ballot organised by ACAS taking place after the year end. The vote was in favour of recognition and the agreement came into force in May 2013.

Training and development

We have a small training and development group that manages and monitors what we do in the area. A training plan for the year was published in June, based on needs identified in the performance management process and through other discussions and requests. During the year sessions and courses were made available on a broad range of subjects, for groups and individuals. They included:

- pensions and legal technical sessions – for example, automatic enrolment, age discrimination, contracting-out;
- handling difficult contacts;
- bullying, harassment and diversity awareness (for all staff).

Some sessions were run in-house, others in partnership with other bodies, such as the Pensions Management Institute, the Samaritans and the Pensions Advisory Service.

2.4 Other management activities

IT

Our IT (software and hardware) was last refreshed in 2007. In previous annual reports we have talked about the inadequacies of it. And so we began the year really looking forward to using our new IT from October 2012, when our existing contract came to end and the refresh should have been complete.

At the end of 2011/12 we had signed a new IT contract with Specialist Computer Centres plc (SCC) to provide us with an IT Managed Service for a five year term. Under this contract we had also chosen iizuka software technologies ltd (iizuka) to provide our casework management system.

Our new IT arrangement is quite different from the old, with

- leased hardware from SCC, rather than bought;
- data being held in the 'cloud' on a secure multi-tenanted platform, capable of being shared with other 'government' users, provided by SCC, rather than managing our own servers within the office; and
- a new case management system tailored to our requirements.

From April onwards we started undertaking all the development work to enable these new arrangements to be implemented in October 2012.

We were fully expecting to say in this annual report that we had gone live, and to provide a brief account of the journey over the year. Sadly, this is not the case. We have gone live on our new case management system, but we are not yet on the new platform, and we do not have our new IT kit and other upgraded software. The following account of our journey over the last year is therefore fuller than might otherwise have been the case.

The secure platform provided by SCC is the first of its kind. We have classified our data as needing "business impact level 3" protection⁴; much of it is of a personal and sensitive nature. The platform is intended for bodies needing that level of protection and so has to be formally accredited. We are to be the first users of this new platform.

So we were breaking new ground, and in doing so faced a significant number of obstacles en route. To summarise, SCC first had to get the platform accredited (which happened in late August 2012). The next step, for us to connect to the platform, proved considerably more tricky. SCC had to rethink the intended approach as the initial plan was not viable. Then, when the new approach had been decided on, for a whole slew of reasons (some of which were outside the control of SCC, for example, a 'no dig' embargo on roads in London during the Olympics, and again at Christmas) the link to the platform was not physically in place until February 2013. Our connection to the platform then had itself to be security tested and accredited. The necessary accreditation has recently been obtained, and we expect to go live on the platform in June.

Looking back, it was over optimistic of SCC to suggest that it would be possible for us to go live on the platform in October 2012. We have fed this back to SCC, and in recognition, and as a gesture of goodwill, they have made significant financial adjustments. We are grateful for their support, though it should never have been necessary, and the relationship has remained strong, even though there have been periodic tensions.

⁴ Based on risk assessment standards defined by CESG, the government Communications-Electronics Security Group

As to keeping us going, when it became apparent that we could not go live in October we extended our existing IT contract arrangements until the end of 2012, in the expectation that we would go live from January 2013. Again this was not possible, nor was it possible to extend the old contract further and so from January 2013 SCC have been providing support and maintenance of our existing network, and our eight year old kit, (lending us new kit to tide us over where necessary). Keeping the old kit running has been more or less trouble free, and we are very pleased with the service we have received from SCC in managing it, which bodes well for the future, once we have new kit.

We did manage to go live on our new case management system in January, which (through a naming competition) we now call "Navigo". The software is running on a server in our office provided specifically by SCC under the short term arrangements mentioned above; it will be moved across to the platform when we go live. In general we are pleased with Navigo, and iizuka have been very responsive and supportive throughout the journey, helping to come up with ideas for how best to tailor their system to our needs.

The workflows on Navigo function well, and we have been working with iizuka to resolve some teething problems with how documents are created and stored. We expect many of these issues to be fully resolved before we move across to the platform. The management information reporting tool, electronic documents and records management and knowledge management functionality has not yet been fully integrated. We expect to do this during 2013/14. In the background we are maintaining our old arrangements until we are satisfied that the system is doing what we want it to in these areas.

We ended last year's annual report by concluding that progress on the IT project had been slower than hoped, and had not yet borne fruit, but there was blossom on the bough. Labouring the analogy we can summarise this year by saying that progress was considerably slower than expected, we have had one harvest in the form of Navigo, and we expect to have a heavier harvest this summer, based on all preparatory work and seeds sown over the last year.

Quality management

Our quality management working group (a small group of staff normally involved in casework) manage a range of regular quality checks across different activities, with reports and recommendations as appropriate. They review paper files as a whole, the quality of data recording, individual items of correspondence and telephone call recording. The sample size for each check is quite small, so statistics are not, on their own, meaningful.

Findings have overall been positive and case workers are generally comfortable with having their work reviewed in this way.

In addition to the independent checks, we have introduced a "peer review" process for particular types of work.

Working groups

In addition to the quality management group mentioned above, and the training and development group referred to in section 2.3 we have groups that deal with knowledge management, accessibility and change management. They are all made up of staff who take time out from their "day jobs" to consider and manage our activities in those areas. Doing so is regarded as helpful to personal development and engagement with wider activities of this sort is taken into account in performance reviews.

Liaison

Relationship managers

We have designated individual members of staff as “relationship managers” for some of the larger pension schemes. The objective is to encourage respect and understanding between our organisations, with a view to complaints being handled efficiently and difficulties being headed off at the pass. This year we have extended the arrangement to include the Local Government Pension Scheme, engaging through the Employers’ Organisation for Local Government. And we have begun discussions with some of the larger pension provider businesses, with a view to establishing similar links with them.

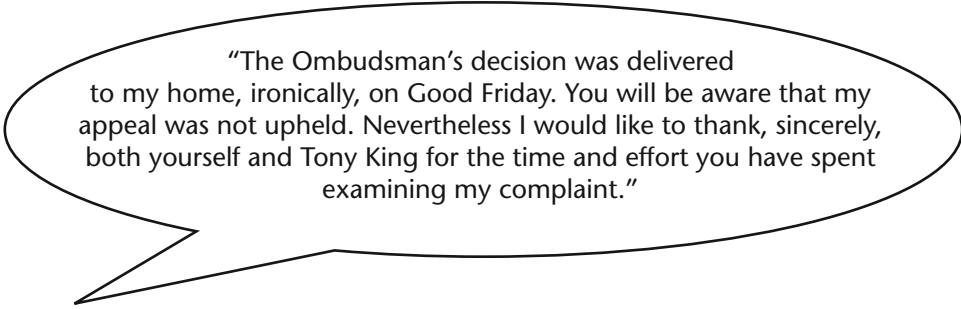
As well as ad hoc engagement between the schemes’ representatives and ours, we hold an annual meeting in November each year for all representatives and relationship managers. This year’s included an address from a representative of the Serious Fraud Office about pension liberation schemes.

Liaison group

Our independently run Pensions Ombudsman liaison group met twice during the year. It consists of representatives of professional and trade bodies and provides a very helpful forum for discussion of potential process change and likely future sources of complaint, amongst other things. We are grateful for the support of CMS Cameron McKenna who have provided secretariat and other resources.

Customer satisfaction

Towards the year end we carried out a customer satisfaction survey across complainants on exactly the same basis as the one that we had carried out in the previous year. (There had been previous surveys, but not constructed in a directly comparable way.) The emerging theme is that people think we do a fair job of communicating, but we take longer than they want to deal with cases. Now that we have two years’ results we will be start to be able to look at trends and see whether process changes and management of expectations alter views of our customers.



“The Ombudsman’s decision was delivered to my home, ironically, on Good Friday. You will be aware that my appeal was not upheld. Nevertheless I would like to thank, sincerely, both yourself and Tony King for the time and effort you have spent examining my complaint.”

We also receive unsolicited feedback on individual cases. And sometimes we receive positive feedback even where a complainant has not obtained the outcome they were hoping for.

Complaints about us

We operate a two stage process for dealing with complaints about our service. Before that we hope that parties will be able to raise the matter with the member of staff that they are dealing with. This enables issues to be resolved as quickly and informally as possible – sometimes with an apology, or agreeing a way to address the particular problem, or with an explanation about why we did something the way they did.

Where the person is either not satisfied with this response, or they consider the matter is more serious, their complaint will be referred to the manager of the person handling the case. This is stage one of our internal complaints process. The manager will usually send a written response setting out their view on the complaint, and, if appropriate, what they intend to do to address it. If the person concerned still is not satisfied their complaint is referred to the Casework Director, and if about the Casework Director, to the Ombudsman or Deputy Ombudsman, to consider.

This year we received 18 complaints made under our internal complaints procedure. However, often what the person is really complaining about is the outcome of the case – for example the decision itself, the quality of the reasons given, or the findings of fact made. And whilst they may also have concerns for example, about the quality of the investigation, or the investigator's impartiality, the issues they raise are so inextricably linked with the determination by the ombudsman, they are not capable of being addressed under our internal complaints procedure. The reason is of course that decisions of the Pensions Ombudsman and Pension Protection Fund Ombudsman are final and binding on the parties. We cannot go back and review them and there is nothing to be achieved by dealing with a complaint that essentially concerns the outcome. Because of this, only six complaints in the year were capable of being dealt with under our internal complaints procedure.

Among the issues raised were how long it took us to make a decision whether to investigate and how long it took to conclude an investigation. In both we acknowledged that we had not met the individuals' expectations of us, but said that we had tried to deal with the case as expeditiously as possible.

In one case, although the case had been accepted for investigation at the outset, it was subsequently decided after the investigation began that the matter was not something that we could investigate. The complainant was very disappointed to learn this, and we apologised for that. However, we do make it clear to parties at the outset that the decision to investigate will be kept under review.

In another case we accepted that some administrative aspects could have been handled better, for example correspondence from us could have been more timely. One person said that our internal complaints policy (the two stage process) was not particularly clear. We agreed to make it clearer on our website.

Where the complaint is about the service received (but not the outcome of a case) we are subject to the jurisdiction of the Parliamentary Ombudsman. We are not aware of any complaints that are subject to investigation by her office.

Key performance indicators

Our key performance indicators, and outcomes for the year, are described in section 2.1.

Risks and uncertainties

Our risk strategy is described in greater detail in the governance statement in section 4.3. We set and regularly review risk at strategic and operational levels. During the year, key strategic risks were managed under the headings of:

- stakeholder relationships;
- obligations as an employer;
- governance, management and financial controls;

2: Management Commentary
2.4: Other management activities

- financial resources;
- workload predictions;
- case decisions;
- IT systems and infrastructure;
- business continuity;
- data security.

Disclosures

Section 3: Disclosures

3.1 Statutory background

The Pensions Ombudsman is a statutory commissioner appointed by the Secretary of State for Work and Pensions under section 145 of the Pension Schemes Act 1993. The jurisdiction and powers of the Pensions Ombudsman are derived from Part X of the Pension Schemes Act 1993 and regulations thereunder.

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

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

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

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

3.2 Other interests

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

3.3 Accounting and audit

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

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

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

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

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

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

A handwritten signature in black ink, appearing to be 'Tony King', written in a cursive style.

Tony King
Pensions Ombudsman
Pension Protection Fund Ombudsman
21 June 2013

Financial Statements

Section 4: Financial Statements

4.1 Remuneration report

Remuneration policy

In accordance with Sections 145 and 145A of the Pension Schemes Act 1993, the current and future remuneration of the Pensions Ombudsman and the Deputy Pensions Ombudsman is determined by the Secretary of State for Work and Pensions. The current and future remuneration of the Pension Protection Fund Ombudsman and Deputy Pension Protection Fund Ombudsman is determined by the Secretary of State in accordance with Sections 209(4) and 210(6) of the Pensions Act 2004. For the year 2011/12 (paid in 2012/13) the Ombudsman's payments included a bonus element of up to 10% of salary as assessed by the Departmental Steward on behalf of the Secretary of State.

Service contracts

The length of service contracts is determined by the Secretary of State for Work and Pensions. Tony King was reappointed for a further 3 years on 1 September 2010. Jane Irvine was reappointed on a part time basis for 3 years on 18 November 2012.

Name	Dates of appointment	Unexpired term	Notice period
Tony King	1 September 2007	5 Months*	6 months from employee
Jane Irvine	18 November 2009	2 years 7.5 months	6 months from employee

* In June 2013 it was announced that Tony King has been reappointed for 4 years.

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

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

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

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

Salary and pension entitlements

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

The information in these tables is subject to audit.

Remuneration

	2012/13			2011/12		
	Salary (£000)	Non Consolidated Performance Pay (£'000)	Benefits in Kind (to nearest £100)	Salary (£000)	Non Consolidated Performance Pay (£'000)	Benefits in kind (to nearest £100)
Tony King	£120 – £125	£10 – £15**	–	£120 – £125	£10 – £15*	0
Jane Irvine	£35 – £40	–	–	£30 – £35	–	–
Band of Highest Paid Director's Total Remuneration	£135 – £140			£135 – £140		
Median Total Remuneration	£34			£35		
Ratio	3.97			4		

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

** Paid in 2012/13 but earned in 2011/12

Reporting bodies are required to disclose the relationship between the remuneration of the highest paid director in their organisation and the median remuneration of the organisation's workforce. The organisation does not have any Directors. The banded remuneration of the highest paid office holder in the financial year 2012/13 was £135,000 – £140,000 (2011/12 £135,000 – £140,000). This was 3.97 times (2011/12 – 4) the median remuneration of the workforce which was £33,865 (2011/12 – £35,000).

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

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

Pension benefits

	Accrued pension at age 60 as at 31/3/13 (£'000)	Real increase in pension at age 60 (£'000)	CETV at 31/3/13 (£'000)	CETV at 31/3/12 (£'000)	Real Increase in CETV (£'000)
Tony King	50-55	2.5-5	1070	946	37

Related lump sum at 31/3/13 and at pension age is Nil.

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

Cash Equivalent Transfer Values

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

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

The real increase in the value of the CETV

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

Pensions

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

Employee contributions are salary related and range between 1.5% and 3.9% of pensionable earnings for **classic** and 3.5% and 5.9% for **premium**, **classic plus** and **nuvos**. Increases to employee contributions will apply from 1 April 2013. Benefits in **classic** accrue at the rate of 1/80th of final pensionable earnings for each year of service. In addition, a lump sum equivalent to three years' pension is payable on retirement. For **premium**, benefits accrue at the rate of 1/60th of final pensionable earnings for each year of service. Unlike **classic** there is no automatic lump sum. **Classic plus** is essentially a hybrid with benefits for service before 1 October 2002 calculated broadly as per **classic** and benefits for service from October 2002 worked out as in **premium**. In **nuvos** a member builds up a pension based on his pensionable earnings during their period of scheme membership. At the end of the scheme year (31 March) the member's earned pension account is credited with 2.3% of their pensionable earnings in that scheme year and, immediately after the scheme year end, the accrued pension is uprated in line with Pensions Increase legislation. In all cases members may opt to give up (commute) pension for lump sum up to the limits set by the Finance Act 2004.

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

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

Although the PCSPS is unfunded, employer contributions are set at the level of contributions that would be paid by private sector employers to pension schemes for their employees. For 2012/2013, employers' contributions were payable to the Principal Civil Service Pension

Scheme in the range 16.7% to 24.3% of pensionable pay. From 1 April 2013 the percentages and salary bands remain the same.

The information in this table is subject to audit.

Band	2012 -2013		From 1 April 2013	
	Salary Band (£)	Rate of charge	Salary Band (£)	Rate of charge
Band 1	21,500 and under	16.7%	21,500 and under	16.7%
Band 2	21,501 to 44,500	18.8%	21,501 to 44,500	18.8%
Band 3	44,501 to 74,500	21.8%	44,501 to 74,500	21.8%
Band 4	74,501 and above	24.3%	74,501 and above	24.3%

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

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



Tony King
Pensions Ombudsman
Pension Protection Fund Ombudsman
21 June 2013

4.2 Statement of Accounting Officer's responsibilities

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

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

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

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

4.3 Governance statement

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

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

Governance framework

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

The Audit Committee

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

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

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

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

The Committee met four times during 2012/13. Stuart Weatherley and Roy Field attended all four meetings.

Corporate governance

The Pensions Ombudsman's office is not a listed company and we do not have a board. So the Corporate Governance Code does not apply but where it is applicable we have complied. Our internal governance arrangements are described below.

Management team

Membership

Pensions Ombudsman
Casework Director
Business Manager
Team Leaders

Purpose:

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

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

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

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

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

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

In the year there were five meetings of the Strategic Management Forum and twelve ordinary Management Team meetings.

Risk assessment

The system of control is designed to manage risk to a reasonable level rather than to eliminate all risk of failure to achieve policies, aims and objectives; it can therefore only provide reasonable, not absolute, assurance of effectiveness. The system of internal control is based on an ongoing process designed to identify and prioritise the risks to the achievements of our policies, aims and objectives to evaluate the likelihood of those risks being realised and the impact should they be realised, and to manage them efficiently, effectively and economically. The system of control has been in place for the year ended 31 March 2013 and up to the date of approval of the annual report and accounts and accords with Treasury guidance.

The Management Team has determined, in the light of the size of the organisation and our relatively straightforward functions, that risk should be managed proportionately and reasonably in order to ensure that value is added to the office's objectives. We seek to avoid risk,

but we do not expect to eliminate all risk. We do expect to manage risk so as to be able to fulfil our functions effectively and efficiently so as to maintain public confidence.

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

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

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

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

There were no non trivial lapses of data security in 2012/13.

Review of effectiveness

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

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

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

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



Tony King
Pensions Ombudsman
Pension Protection Fund Ombudsman
21 June 2013

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

I certify that I have audited the financial statements of The Pensions Ombudsman and Pension Protection Fund Ombudsman for the year ended 31 March 2013 under the Pension Schemes Act 1993 and the Pensions Act 2004. The financial statements comprise the Statement of Comprehensive Net Expenditure, the Statement of Financial Position, the Statement of Cash Flows, the Statement of Changes in Taxpayers' Equity and the related notes. These financial statements have been prepared under the accounting policies set out within them. I have also audited the information in the Remuneration Report that is described in that report as having been audited.

Respective responsibilities of the Accounting Officer and auditor

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

Scope of the audit of the financial statements

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

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

Opinion on regularity

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

Opinion on financial statements

In my opinion:

- the financial statements give a true and fair view of the state of The Pensions Ombudsman and Pension Protection Fund Ombudsman's affairs as at 31 March 2013 and of the net expenditure for the year then ended; and
- the financial statements have been properly prepared in accordance with the Pension Schemes Act 1993 and the Pensions Act 2004 and Secretary of State directions issued thereunder.

Opinion on other matters

In my opinion:

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

Matters on which I report by exception

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

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

Report

I have no observations to make on these financial statements.

Amyas C E Morse

Comptroller and Auditor General
National Audit Office
157-197 Buckingham Palace Road
Victoria
London
SW1W 9SP
25 June 2013

4.5 Accounts

The Pensions Ombudsman (Incorporating the Pension Protection Fund Ombudsman)

STATEMENT OF COMPREHENSIVE NET EXPENDITURE

Year ended 31 March 2013

	Note	2012/13 £	2011/12 £
EXPENDITURE			
Staff costs	3	(1,984,598)	(1,892,245)
Depreciation	5	(1,881)	(5,638)
Amortisation	6	(9,100)	–
Other expenditure	4	(936,746)	(862,253)
OPERATING DEFICIT		<u>(2,932,325)</u>	<u>(2,760,136)</u>
TOTAL COMPREHENSIVE EXPENDITURE		<u>(2,932,325)</u>	<u>(2,760,136)</u>

All activities were continuing throughout the year.

The notes on pages 61 to 72 form part of these accounts.

The Pensions Ombudsman (incorporating the Pension Protection Fund Ombudsman)

STATEMENT OF FINANCIAL POSITION

31 March 2013

	Note	2012/13 £	2011/12 £
NON-CURRENT ASSETS			
Property, plant and equipment	5	1,513	3,763
Intangible assets	6	<u>356,810</u>	<u>–</u>
TOTAL NON-CURRENT ASSETS		358,323	3,763
CURRENT ASSETS			
Trade and other receivables	7	35,850	43,510
Cash and cash equivalents	8	<u>145,372</u>	<u>368,578</u>
TOTAL CURRENT ASSETS		181,222	412,088
TOTAL ASSETS		<u>539,545</u>	<u>415,851</u>
CURRENT LIABILITIES			
Trade and other payables	9	<u>167,093</u>	<u>70,074</u>
TOTAL CURRENT LIABILITIES		167,093	70,074
ASSETS LESS LIABILITIES		<u>372,452</u>	<u>345,777</u>
CAPITAL AND RESERVES			
General reserve		<u>372,452</u>	<u>345,777</u>

The financial statements on pages 47 to 60 were approved on 21 June 2013 and signed by



Tony King
Pensions Ombudsman
Pensions Protection Fund Ombudsman
21 June 2013

The notes on pages 61 to 72 form part of these accounts.

The Pensions Ombudsman (incorporating the Pension Protection Fund Ombudsman)

STATEMENT OF CASH FLOWS

Year Ended 31 March 2013

	Note	2012/13 £	2011/12 £
CASH FLOWS FROM OPERATING ACTIVITIES			
Net expenditure after taxation		(2,932,325)	(2,760,136)
Depreciation	5	1,881	5,638
Amortisation	6	9,100	–
Revaluation of fixed assets	5	369	1,493
Decrease in receivables	7	7,660	(8,521)
Increase in payables	9	97,019	(924)
Net cash outflow from operating activities		<u>(2,816,296)</u>	<u>(2,762,450)</u>
CASH FLOWS FROM INVESTING ACTIVITIES			
Purchase of intangible assets		<u>(365,910)</u>	<u>–</u>
Net cash outflow from investing activities		(365,910)	–
CASH FLOWS FROM FINANCING ACTIVITIES			
Grants from sponsor department		<u>2,959,000</u>	<u>3,030,000</u>
NET FINANCING		<u>2,959,000</u>	<u>3,030,000</u>
Net (decrease)/increase in cash and cash equivalents in the year		<u>(223,206)</u>	<u>267,550</u>
Cash and cash equivalents at the beginning of the year		<u>368,578</u>	<u>101,028</u>
Cash and cash equivalents at the end of the year		<u><u>145,372</u></u>	<u><u>368,578</u></u>

The notes on pages 61 to 72 form part of these accounts.

The Pensions Ombudsman (incorporating the Pension Protection Fund Ombudsman)

STATEMENT OF CHANGES IN TAXPAYERS' EQUITY

Year Ended 31 March 2013

	General Reserve £
Balance at 1 April 2011	<u>75,913</u>
Changes in Taxpayers' Equity	
Comprehensive expenditure for the year	<u>(2,760,136)</u>
Grant from sponsor department	<u>3,030,000</u>
Balance at 31 March 2012	<u>345,777</u>
Changes in Taxpayers' Equity	
Comprehensive expenditure for the year	<u>(2,932,325)</u>
Grant from sponsor department	<u>2,959,000</u>
Balance at 31 March 2013	<u>372,452</u>

The notes on pages 61 to 72 form part of these accounts.

The Pensions Ombudsman (incorporating the Pension Protection Fund Ombudsman)

NOTES TO THE ACCOUNTS

Year Ended 31 March 2013

1. ACCOUNTING POLICIES

Basis of accounting

These financial statements have been prepared in accordance with the 2012/13 *Government Financial Reporting Manual (FReM)* issued by HM Treasury. The accounting policies contained in the FReM apply International Financial Reporting Standards (IFRS) as adapted or interpreted for the public sector context. Where the FReM permits a choice of accounting policy, the accounting policy which is judged to be most appropriate to the particular circumstances of the Pensions Ombudsman for the purpose of giving a true and fair view has been selected. The particular policies adopted by the Pensions Ombudsman are described below. They have been applied consistently in dealing with items that are considered material to the accounts.

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

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

Accounting convention

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

Going concern

Future financing of the Ombudsman will be met by grant-in aid from the Department for Work and Pensions, as the Ombudsman's sponsoring dept. The amount for 2013/14 has already been agreed and there is no reason to suppose that this will not continue. It has accordingly been considered appropriate to adopt the going concern basis for the preparation of these financial statements.

Government grants & grant-in-aid

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

Cash and cash equivalents

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

Other income and expenditure

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

VAT

The Ombudsman was not registered for VAT during the financial year 2012/13.

The Pensions Ombudsman (incorporating the Pension Protection Fund Ombudsman)

NOTES TO THE ACCOUNTS

Year Ended 31 March 2013

1. ACCOUNTING POLICIES (continued)

Property, plant and equipment

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

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

Depreciation

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

Information Technology – 5 years straight line

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

During 2012/13 the Ombudsman conducted a review of its depreciation rates to ensure assets were charged over the expected useful economic life of the assets, this resulted in IT Equipment being charged over a revised 7 years (6 years 2011/12). The impact of this change in accounting estimate is a £1,882 reduction in charge for the year to the Statement of Comprehensive Net Expenditure.

Intangible assets

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

Amortisation

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

Information Technology – 5 years straight line

Intangible assets are not depreciated until they are commissioned or brought into use.

The Pensions Ombudsman (incorporating the Pension Protection Fund Ombudsman)

NOTES TO THE ACCOUNTS

Year Ended 31 March 2013

1. ACCOUNTING POLICIES (continued)

Leases

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

Pension arrangements

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

Financial instruments

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

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

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

The Pensions Ombudsman (incorporating the Pension Protection Fund Ombudsman)

NOTES TO THE ACCOUNTS

Year Ended 31 March 2013

1. ACCOUNTING POLICIES (continued)

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

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

Critical accounting judgements and key sources of estimation uncertainty

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

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

There are no significant sources of estimation uncertainty.

Operating segments

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

The Pensions Ombudsman (incorporating the Pension Protection Fund Ombudsman)

NOTES TO THE ACCOUNTS

Year Ended 31 March 2013

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

PPFO activity continues to be of relatively limited scale. Previously costs were attributed based purely on a comparison between the number of PPFO cases and PO cases dealt with. During the 2008/9 year we introduced an informal time recording arrangement to support the split of costs. During the year 21 PPFO cases (2011/12: 24 cases) and 955 PO cases (2011/12: 888 cases) were closed. Approximately 2% (2011/12: 3%) of expenditure and total net liabilities (corresponding to £58,646 for the year ended 31 March 2013) is deemed attributable to the PPFO (2011/12: £83,000).

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

3. STAFF COSTS

	Year ended 31 March 2013			31 March
	Total	Permanently employed staff	Others	2012
	£	£	£	£
Wages and salaries	1,562,465	1,555,943	6,522	1,499,884
Social security costs	141,943	141,943	–	128,806
Other pension costs	280,190	280,190	–	263,555
	<u>1,984,598</u>	<u>1,978,076</u>	<u>6,522</u>	<u>1,892,245</u>

The average number of staff employed during the period was 39 (2011/12: 37). The average number of temporary staff was 3 (2011/12: 1).

The Pensions Ombudsman (incorporating the Pension Protection Fund Ombudsman)

NOTES TO THE ACCOUNTS

Year Ended 31 March 2013

Principal Civil Service Pension Schemes

From 1 October 2002, civil servants and others approved by the Cabinet Office, including certain designated staff of the Ombudsman, may be in one of three statutory based 'final salary' unfunded multi-employer defined benefit schemes (Classic, Premium, and Classic Plus). The schemes are unfunded, with the cost of benefits met by monies voted by Parliament each year. Entrants after 1 October 2002 may choose to join a 'money purchase' stakeholder arrangement with a significant employer contribution (partnership pension account). Pensions payable under Classic, Premium, and Classic Plus are increased annually in line with Pensions Increase legislation. Employee contributions are set at the rate between 1.5% and 3.9% of pensionable earnings for Classic and between 3.5% and 5.9% for Premium and Classic Plus.

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

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

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

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

During 2012/13 employer's contributions of £280,190 (2011/12: £263,555) were payable to the scheme.

The Pensions Ombudsman (incorporating the Pension Protection Fund Ombudsman)

NOTES TO THE ACCOUNTS

Year Ended 31 March 2013

4. OTHER EXPENDITURE

	Year ended 31 March 2013 £	Year ended 31 March 2012 £
Education and exams	349	2,318
Rent and rates	309,858	327,156
Insurance	2,766	4,266
Business continuity	14,944	15,408
Travel and subsistence	6,507	3,045
Telephone	3,387	8,995
Hire of equipment	11,538	9,627
Printing, stationery and postage	30,801	34,179
Staff training	14,850	7,752
Sundry expenses	3,246	4,286
Computer expenses	267,985	268,005
Subscriptions	50,964	70,504
Staff Recruitment	3,939	4,649
Legal and professional fees	176,922	61,934
Accountancy fees	16,860	17,360
Auditor's remuneration	20,500	20,500
Non-cash items:		
• Revaluation of fixed assets	369	1,493
• Loss on disposal of fixed assets	–	–
• Bank charges	961	776
	<u>936,746</u>	<u>862,253</u>

The auditors did not receive any remuneration for non audit work (2011/12: £Nil).

The Pensions Ombudsman (incorporating the Pension Protection Fund Ombudsman)

NOTES TO THE ACCOUNTS

Year Ended 31 March 2013

5. PROPERTY, PLANT AND EQUIPMENT

	Information Technology £
VALUATION	
At 1 April 2012	124,788
Revaluation	(12,229)
At 31 March 2013	<u><u>112,559</u></u>
DEPRECIATION	
At 1 April 2012	121,025
Revaluation	(11,860)
Charge for the year	1,881
At 31 March 2013	<u><u>111,046</u></u>
NET BOOK VALUE	
At 31 March 2013	<u>1,513</u>
At 31 March 2012	<u><u>3,763</u></u>
VALUATION	
At 1 April 2011	144,598
Revaluation	(19,810)
At 31 March 2012	<u><u>124,788</u></u>
DEPRECIATION	
At 1 April 2011	133,704
Revaluation	(18,317)
Charge for the year	5,638
At 31 March 2012	<u><u>121,025</u></u>
NET BOOK VALUE	
At 31 March 2012	<u>3,763</u>
At 31 March 2011	<u><u>10,894</u></u>

Property, plant and equipment is valued using indices.

The Pensions Ombudsman (incorporating the Pension Protection Fund Ombudsman)

NOTES TO THE ACCOUNTS

Year Ended 31 March 2013

6. INTANGIBLE ASSETS

	Information Technology	Assets under development	Total £
VALUATION			
At 1 April 2012	–	–	–
Additions	182,005	183,905	365,910
At 31 March 2013	182,005	183,905	365,910
AMORTISATION			
At 1 April 2012	–	–	–
Charge for the year	9,100	–	9,100
At 31 March 2013	9,100	–	9,100
CARRYING VALUE			
At 31 March 2013	172,905	183,905	356,810
At 31 March 2012	–	–	–

Included in Intangible assets at 31 March 2013 are leased assets with a valuation of £183,905.

The Pensions Ombudsman (incorporating the Pension Protection Fund Ombudsman)

NOTES TO THE ACCOUNTS

Year Ended 31 March 2013

7. TRADE AND OTHER RECEIVABLES

	31 March 2013 £	31 March 2012 £
Other receivables	12,385	10,727
Prepayments	23,465	32,783
	<u>35,850</u>	<u>43,510</u>

There are no intra government balances.

8. CASH AND CASH EQUIVALENTS

	31 March 2013 £	31 March 2012 £
Balance at 1 April	368,578	101,028
Net change in cash and cash equivalent balances	(223,206)	267,550
Balance at 31 March	<u>145,372</u>	<u>368,578</u>

The following balances at 31 March 2013 were held at:
Commercial banks and cash in hand £145,238 (31 March 2012: £368,495).

9. TRADE AND OTHER PAYABLES

	31 March 2013 £	31 March 2012 £
Accruals	<u>167,093</u>	<u>70,074</u>

PAYABLES: Balances with other Government bodies.

	31 March 2013 £	31 March 2012 £
HM Revenue and Customs	76,809	–
	–	20,500
Accruals	<u>76,809</u>	<u>20,500</u>

The Pensions Ombudsman (incorporating the Pension Protection Fund Ombudsman)

NOTES TO THE ACCOUNTS

Year Ended 31 March 2013

10. COMMITMENTS UNDER OPERATING LEASES

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

Buildings

	31 March 2013	31 March 2012
	£	£
Obligations under operating leases comprise:-		
Not later than one year	64,987	259,948
Later than one year and not later than five years	–	64,987
	<u>64,987</u>	<u>324,935</u>

Other

	31 March 2013	31 March 2012
	£	£
Obligations under operating leases comprise:-		
Not later than one year	223,850	130,384
Later than one year and not later than five years	405,686	21,153
Later than five years	115,027	–
	<u>744,563</u>	<u>151,537</u>

11. RELATED PARTY TRANSACTIONS

The Department for Work and Pensions are our Sponsor Department and grant-in-aid is received from them, the amounts are disclosed in the Statement of Changes in Taxpayers' Equity. Service Charges in respect of the accommodation were reimbursed to the Department for Work and Pensions in the sum of £20,193 during the year (2011/12: £17,882). During the year the office accommodation was rented from HM Revenue and Customs at an annual cost of £280,344 (£307,728 in 2011/12). At 31 March 2013 £Nil was due to the Department for Work and Pensions (2011/12: £Nil) and £76,809 was due to HM Revenue and Customs (2011/12 £Nil). The Ombudsman's Internal Audit Services are provided by the Department for Work and Pensions and the annual cost was £18,900 for 2012/13 (in 2011/12 £20,500). At 31 March 2013 £nil was due to the Department for Work and Pensions (£20,500 in 2011/12).

12. CAPITAL COMMITMENTS

Amounts contracted for but not provided in the accounts amounts to £Nil (2011/12: £336,384).

The Pensions Ombudsman (incorporating the Pension Protection Fund Ombudsman)

NOTES TO THE ACCOUNTS

Year Ended 31 March 2013

13. FINANCIAL INSTRUMENTS

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

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

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

Financial Assets by category at fair value

	2013 Loans and receivables £	2012 Loans and receivables £
Cash and cash equivalents	145,372	368,578
Other receivables	12,385	10,727
	<u>157,757</u>	<u>379,305</u>

Financial liabilities by category at fair value

	2013 Measured at amortised cost £	2012 Measured at amortised cost £
Accruals	<u>167,093</u>	<u>70,074</u>

Liquidity risk

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

Interest rate risk

The Ombudsman is not exposed to any interest rate risk.

Foreign currency risk

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

4.6 Accounts Direction

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

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



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