



pensions ombudsman

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pension protection fund ombudsman

Annual Report and Accounts 2013/14

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# Annual Report and Accounts 2013/14

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 and Part X of the Pension Schemes (Northern Ireland) 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 2013/14 the office received £3,179,000 grant-in-aid, incurred net expenditure of £3,172,096 and had net assets at 31 March 2014 of £379,356. Full details are in the accounts.

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# Ombudsman's Introduction

## Section 1: Ombudsman's introduction

*"The Pensions Ombudsman and Pension Protection Fund Ombudsman should continue with their current status as tribunal NDPBs".*

So said the main conclusion about us in the Department for Work and Pensions' (DWP) triennial review of the pensions NDPBs (non-departmental public bodies). We were not surprised – but we were certainly comforted – by the findings that our functions were still thought relevant and that our independent status in the public sector was considered necessary.

Another very welcome recommendation was for a DWP-led review of "the customer journey". I have for some time been concerned that people who should be coming to us just don't arrive – or that when they do arrive it is after going through a number of stages in a process that tends to work best for the articulate, the persistent and the time rich. So it will be invaluable to take a good and critical look at the whole picture, from when a pension problem or query arises, through the various stages at which it can be resolved, ending with us if necessary.

In the meantime we have ourselves begun the next stage of our development – emphasising communication and service quality in the broadest sense. In 2014/15 we will begin to roll out the first stages of this work – making it easier for people to know what we do and how we can help and keeping pension scheme members and pensions schemes at the heart of what we do.

In the introduction to our 2011/12 Annual Report I wrote,

*"At the risk of offering a hostage to fortune, our caseload seems to have settled over the last few years at something over 900 new investigations a year."*

I should perhaps have paid heed to a far more quotable author, Mark Twain, who said,

*"Climate is what we expect, weather is what we get."*

That is because this year we accepted 1,058 new complaints which, as we explain in the body of this report, shows a marked increase and is beginning to look like part of an upward trend – though whether a shift in the weather or actually the beginning of climate change is not yet clear.

There is no single reason for the increase. Certainly we are not being swamped by complaints about any single cause. It is likely that most of the increase is due to people paying more attention to pension matters in and after the economic downturn leading, eventually, to complaints to us across the full range of subjects.

However, there was one new topic: complaints about transfers blocked by pension providers on the grounds that they may be for "pension liberation" – that is, using one of a number of schemes designed to give access to funds before age 55. This is a matter which has been under the spotlight for the last year; providers and trustees are not in an easy position and scheme members are at risk of making decisions they will live to regret. But the people who complain to us are likely to argue that what they are trying to do is not illegal or improper. They may also say that the pension scheme or provider is mistaken in their belief that the transfer was for the purpose of pension liberation. We intend to publish clear decisions on these difficult cases so that in due course commentators and we will be able to publicise wider learning.

We kept pace with the inflow of work; indeed we reduced the number of open cases in the office slightly. And we worked hard to reduce the amount of time that cases spend waiting for the next stage in the process. We did not do as well as we had intended with that – but that was solely because of the unexpectedly high intake of new cases.

Dealing with more cases meant that more needed to be decided by an ombudsman. Thanks are due to Jane Irvine, Deputy Pensions Ombudsman, who increased her part-time hours to help out; and I was particularly pleased that, with the agreement of the Office of the Commissioner for Public Appointments, the Secretary of State appointed our Casework Director, Kim Parsons, as a short term Deputy Pensions Ombudsman to pick up some of the load. She did so in addition to the tremendous amount of work she does in her main role, so I am especially grateful to her.

In the background, as ever, our staff pressed on with a whole range of projects and workstreams to support our casework. In the year – amongst other things – we all worked on updating our aims and values, we rewrote our casework procedure handbook (launched just after the end of the year) and brought our staff guide up to date. And we finally went live on a new secure “cloud” platform for all of our IT services – coping well with the inevitable disruption and teething troubles.

Almost all of the background work happens through people committing time and energy in work that is outside their day jobs, sometimes stepping beyond their comfort zones to learn new skills. So, especially in this year in which we have successfully juggled so many competing priorities, my thanks are due to everyone in the office for their remarkable work and commitment.

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

**Tony King**  
Pensions Ombudsman  
Pension Protection Fund Ombudsman



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## Overview

## Section 2: Overview

### Key facts

We investigate complaints about how pension schemes are run. When someone has already tried to resolve a problem and isn't satisfied with the outcome, they can ask us to help.

We look at the facts, without taking sides. And we have legal powers to make decisions that are final, binding and enforceable in court.

Our service is free.

We deal with complaints about occupational and personal pension schemes. We can also consider complaints about the activities of the Pension Protection Fund, and about some decisions made by the Financial Assistance Scheme.

We are an independent public body. Our Ombudsman and Deputy Ombudsman are appointed by the Secretary of State for Work and Pensions.

### Key figures - Pensions Ombudsman

We dealt with around 3,350 new enquiries, 10% more than we expected.

Around a third of enquiries turned into an investigation.

We took on 1,058 new cases for investigation, 13% more than we expected.

1,115 investigations were completed, almost exactly as we planned.

Over half of our investigations were concluded by our investigators, and did not require a decision from an ombudsman.

Of those referred to an ombudsman for a decision around one in three were upheld in full or part.

80% of our investigations took under a year to complete; 18% took under 6 months.

### Key figures – Pension Protection Fund Ombudsman

We received 60 new complaints about the actions of the Pension Protection Fund in its own right, or as manager of the Financial Assistance Scheme. A third more cases than we expected.

We completed 24 investigations as the Pension Protection Fund Ombudsman.

### Our performance

We met six out of nine of our key performance indicators for Pensions Ombudsman cases, even though our incoming workload was 10% higher than expected. Our focus was on timeliness and throughput, which we know to be high priorities for those who use our service.

What we said we would do	What we did
we would respond to enquiries on average in <b>3</b> working days	we responded within an average of <b>1</b> day
if we had <b>3,000</b> enquiries there would be no more than <b>100</b> open at 31 March year end	we had <b>3,352</b> and there were <b>95</b> open at the year end
we would decide whether we could investigate a case or not within <b>8</b> weeks from the date of the application on average	we made our decisions whether to investigate in <b>6.2</b> weeks on average
we would complete <b>1,110</b> investigations	we completed <b>1,115</b> investigations
If we took on <b>930</b> new investigations we would have no more than <b>600</b> open at 31 March	we took on <b>1,058</b> and had <b>720</b> open at the year end
we would complete investigations on average within <b>10</b> months from the date of the application	we completed investigations in an average of <b>9.47</b> months
investigations open on 31 March would have an average age of <b>20 weeks</b>	the average age was <b>27.25</b> weeks
there would be no more than <b>5%</b> of investigations over 12 months old at 31 March	<b>8.6%</b> of investigations were over 12 months old
there would be no more than <b>1%</b> of investigations over 24 months old at 31 March	<b>2.6%</b> of investigations were over 24 months old

### Our costs

We cost £3.17m to run, and had 35 employees at the end of the year.

We stayed well within budget. The main reasons for underspend were:

- VAT connected to short term staff costs was lower than budgeted for;
- some projects were started later than planned, meaning expenditure has been deferred.

Our actual operating cost was	<b>£3.172m</b>
Our budgeted operating cost was	£3.502m
An underspend of	£0.330m
<hr/>	
Our cost per case was	<b>£928</b>
Our budgeted cost per case was (operating costs divided by the number of enquiries and investigations)	£1,100
Our cost per investigation was	<b>£2,845</b>
Our budgeted cost per investigation was (operating cost divided by the number of completed investigations)	£3,100



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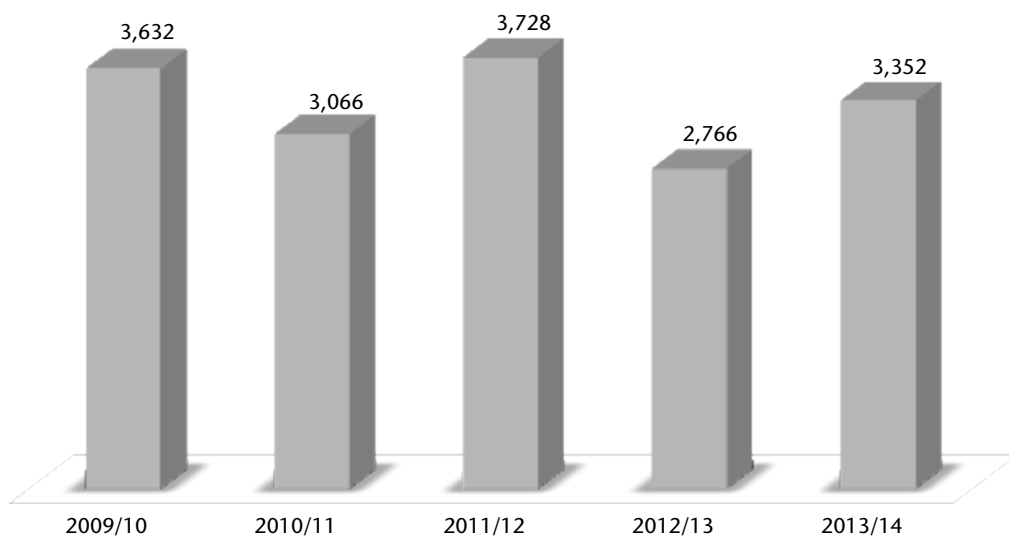
**Pensions Ombudsman casework  
review**

## Section 3: Pensions Ombudsman casework review

### Our workload

**Enquiries** – (essentially any new written contact – including email) were significantly up over last year, though not wildly out of line with previous years after adjustment for anomalies.<sup>1</sup>

#### New enquiries over 5 years

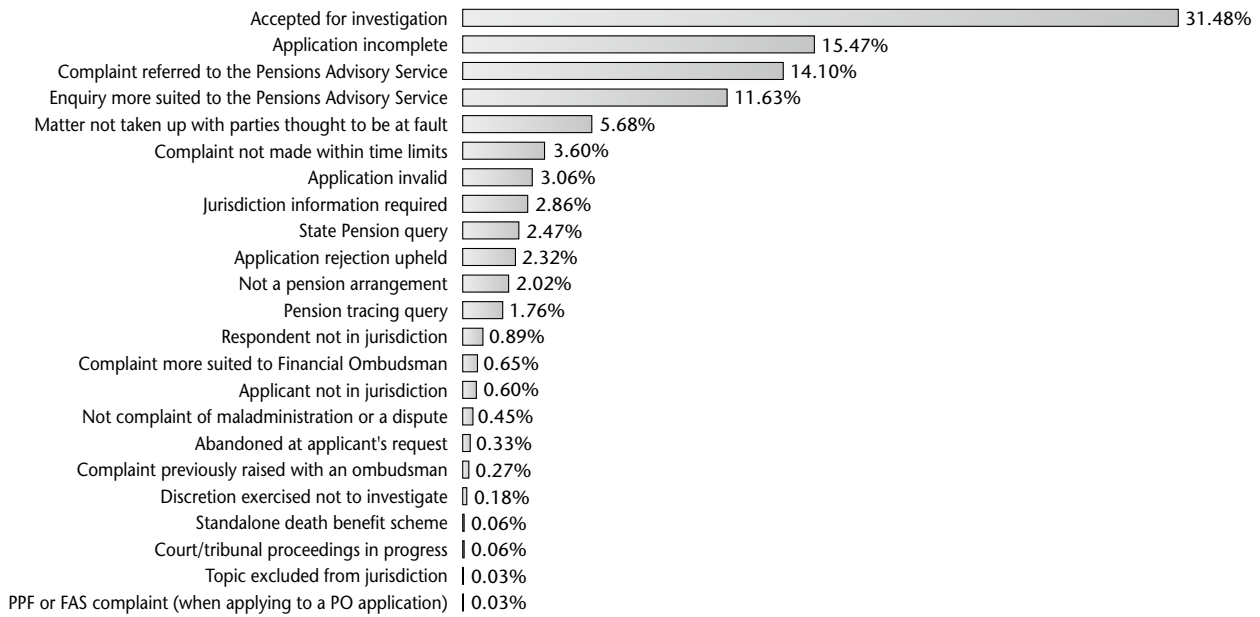


Our average initial response time to new enquiries was one day. (The target was three days.)

There is no clear reason for the increase over last year – certainly no one topic. It may be an indirect result of generally wider coverage and awareness of pension issues.

<sup>1</sup> In 2012/13 we accepted two sets of complaints, totalling over 100, concerning two separate schemes, about one issue in each scheme. There was a similar distortion of about 45 cases in 2009/10. But in other years, including 2013/14, we took on our usual, relatively small number of such associated cases

## What we did with enquiries



Apart from incomplete applications, there were three reasons that enquiries did not become investigations – at least not straight away.

In 5% of enquiries the person or body the complaint was against had not yet been given a chance to resolve the matter.

25% were referred to the Pensions Advisory Service (TPAS): (11% had approached us for guidance on bringing a complaint; 14% had already completed one of our application forms.)

About 27% were not in jurisdiction. They were outside our time limits, had a subject we could not deal with at all, or had a subject that was better dealt with by another body (such as the Financial Ombudsman Service). Our target average time for making a positive decision about jurisdiction was eight weeks. On average we made the decision in around six weeks.

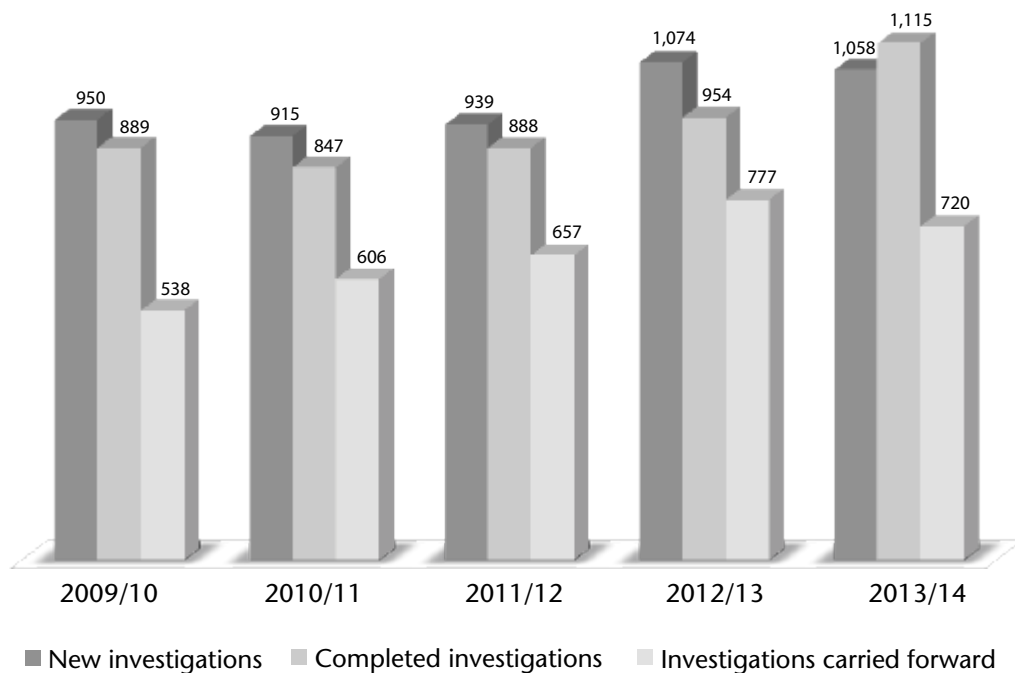
Where there was jurisdiction to investigate we exercised discretion to do so in all but six cases.

Around one in three enquiries (31%) was accepted for investigation.



## Investigations

Our investigation workload, new, completed and carried forward into the next year



**New investigations** – the number of investigations we took on was higher than previous years – and this now seems to be part of a trend.

Adjusted for anomalies<sup>2</sup>, over the five years up to 2013/14 new investigations rose from about 900 to over 1,000 – with the biggest increase in the last year. Also, it is worth noting that the previous three years – again after adjustments – were all in the 700s and that this is the first year since 2004/05 that we have accepted more than 1,000 cases for investigation.

### Completing investigations

In 2013/14 we completed more investigations than we took on, so ended up carrying forward less into next year. That reversed a trend over the past few years during which the carried forward cases have been slowly increasing each year.

We were able to complete more than in recent years because in 2013/14 we continued to use temporary investigative staff taken on in 2012/13 (see Section 6).

We had planned a reduction in carried forward cases to 600, but the fact that we took on about 130 more new investigations than we expected meant that was not possible.

### Investigation timescales

80% of investigations were dealt with in 12 months or less, compared to 78% the year before, and 68% in 2011/12.

<sup>2</sup> In 2012/13 we accepted two sets of complaints, totalling over 100, concerning two separate schemes, about one issue in each scheme. There was a similar distortion of about 45 cases in 2009/10. But in other years, including 2013/14, we took on our usual, relatively small number of such associated cases

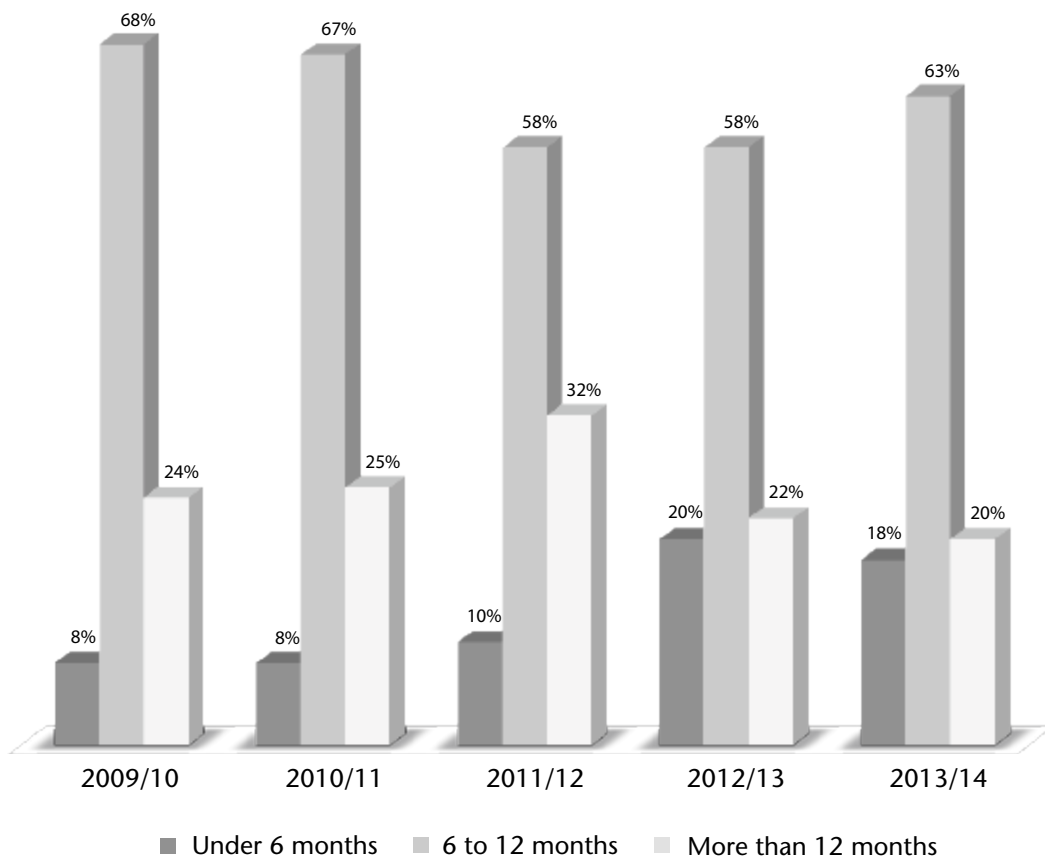
The average case closure time was 9.5 months, the lowest it has been for six years.

The age of open cases has gone up by a month, partly explained by a large group of cases on the same subject that were relatively young last year (and are now closed) and partly by a small number of complex cases on which progress has been unavoidably slower than normal.

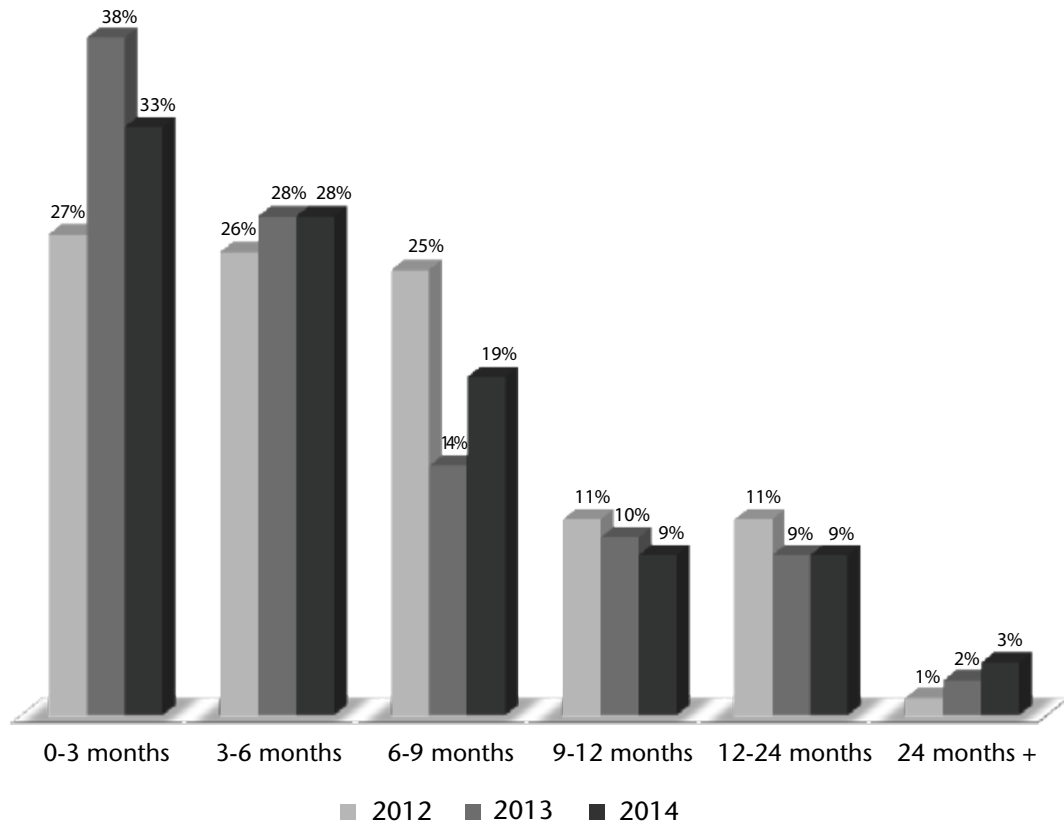
### Age of open and completed investigations over time

	2009/10	2010/11	2011/12	2012/13	2013/14
Average age of open investigations at 31 March in months	6.0	6.7	6.5	5.0	6.3
Average age of investigations at completion in months	10.9	9.8	10.6	9.6	9.5

### Age of investigations at completion over time (percentages)



## Age profile of open investigations at 31 March 2012, 2013 and 2014



### Dealing with cases – a proportionate approach

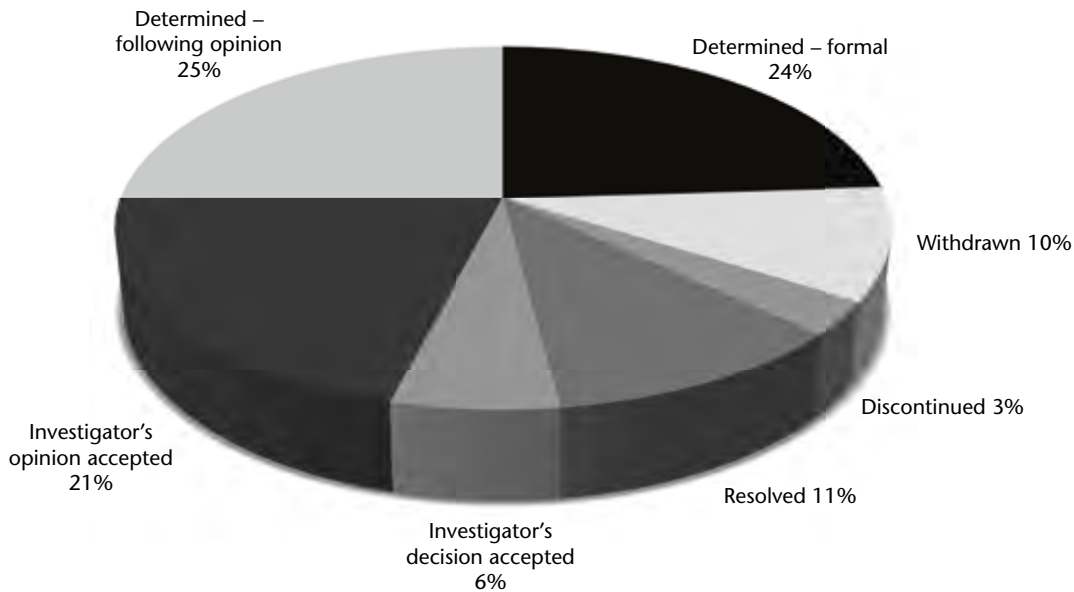
We try to deal with investigations in a way that suits the needs of the case and the parties best. Many can be resolved by one of our investigators, either by explaining the position informally, or by giving a more formal opinion on the merits of the case, with recommendations for redress if appropriate.

48% of cases were resolved because the parties accepted an investigator's view of the outcome, or by mediation/explanation, up from 40% in the two previous years.

25% were determined by an ombudsman after an investigator had expressed an opinion that one or more of the parties did not accept (40% in 2012/13).

24% of cases received a formal determination by an ombudsman, up from 19% in 2012/13.

## How we dealt with investigations in 2013/14



**Resolved/withdrawn** = the person bringing the case decides not to pursue it, often after discussion with the investigator (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.

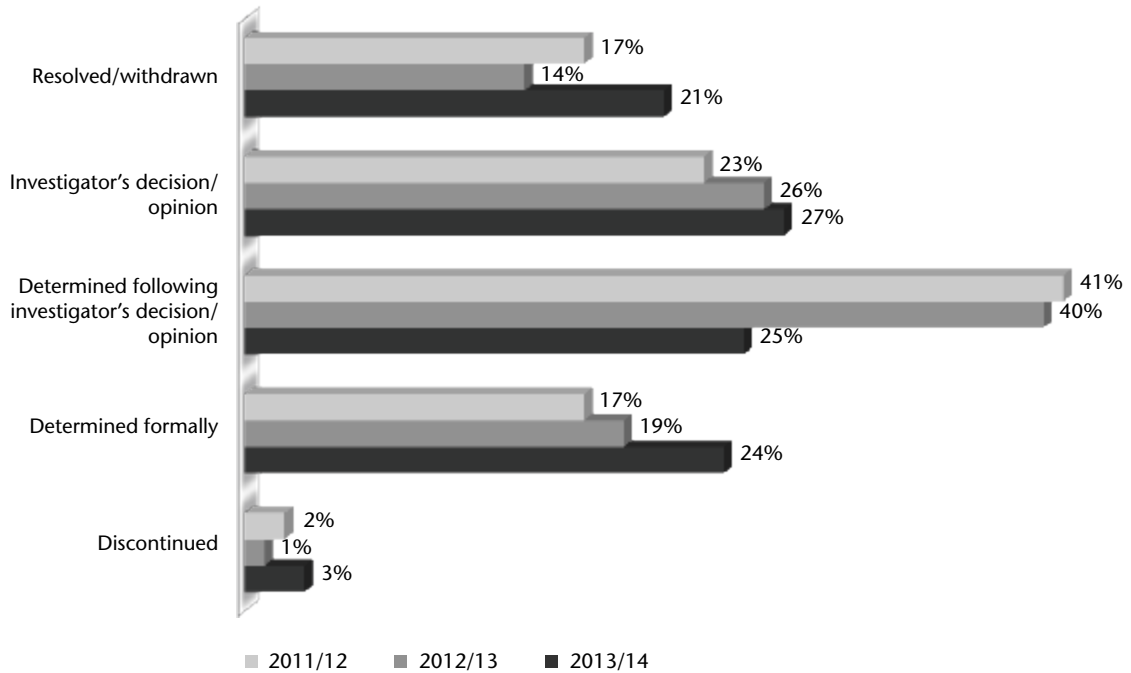
**Investigator's opinion** = our investigator writes in a structured format giving their opinion on how the case should be dealt with, and the investigator's opinion is accepted by the parties.

**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 issuing a short form determination. These decisions are not currently published, but may be in the future.

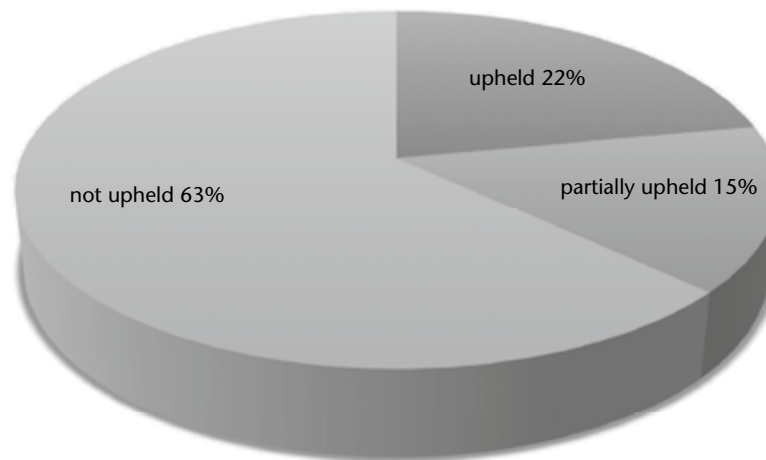
**Determined formally** = an ombudsman issues a provisional decision inviting the parties to make submissions in response, which is followed by a formal determination. These are published, although the parties can make representations about why it shouldn't be or, ask for it to be redacted in some way.

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

### How we dealt with investigations: a three year comparison



### Outcome of cases determined by an ombudsman



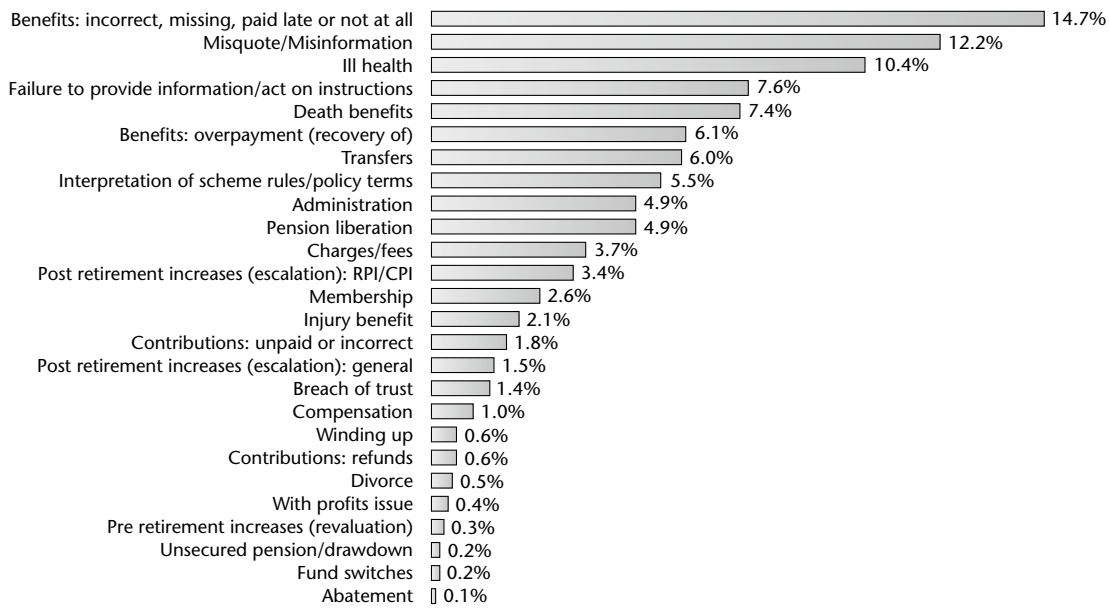
#### What the cases were about

The three main topics of new investigations in the year were:

Incorrect, missing or overdue benefits	15%
Misquotations or wrong information	12%
Ill-health benefits	10%

We improved the way we record subject matter this year, to give us more detail. It makes precise comparison difficult, but – for example – the percentage of ill-health related complaints is consistent with previous years.

## Subject matter of complaints accepted for investigation



### Pension liberation

During the year we accepted for investigation 52 complaints about pension liberation.

They were almost all about blocked transfers – where people had not been allowed to transfer out of schemes because the provider thought the intention was to take cash when tax rules do not allow it (an “unauthorised payment”). They were all against personal pension providers; none concerned transfers from occupational schemes. The numbers are slightly misleading, because there were a few groups of multiple complaints brought by representatives who had been advising the transferors.

A handful concerned transfers that had been made, but the funds could not now be accessed.

None has yet been determined.

### Automatic enrolment

As yet we have had no new complaints resulting directly from automatic enrolment.

## Case summaries

These examples of cases completed during the year include some concluded by the investigator, as well as those going to an ombudsman<sup>3</sup> for determination.

We usually publish formal determinations on our website in their entirety. These concise summaries give a flavour of our broader casework.

## Incorrect, missing or overdue benefits

### An informal resolution

Ms A complained that a pension she had accrued whilst working for a former employer had gone missing. Ms A said she had accrued benefits in the section of the scheme in question from 1989 to 1991, when the scheme closed. The trustees said that all the members' benefits had been transferred to other providers in 1993. They could not say where Ms A's benefits had gone. Ms A had a copy of a letter dated 1995 from another scheme telling her she could transfer her benefits, worth around £4,000, into their arrangement. That transfer did not go ahead.

The investigator asked the scheme for its response to the complaint, including for evidence of the searches undertaken to try and find out what happened to Ms A's benefits.

The scheme accepted that it could not prove that Ms A's benefits had been transferred out, and it was therefore still liable to pay them. It offered to contact Ms A's adviser in order to agree the basis on which the current fund value should be calculated. The investigator put this offer to Ms A, saying that it was consistent with what the ombudsman would probably award if the matter was determined. Ms A agreed and the matter was resolved.

<sup>3</sup> We refer to "the ombudsman" whether the Pensions Ombudsman or a Deputy Pensions Ombudsman dealt with the case

### **Trustees excluded pensionable allowance**

Mrs B complained that her former employer and the pension scheme administrator failed to take into account an allowance she received in the pensionable salary used to calculate her benefits.

Mrs B received a basic salary plus two additional payments in recognition of her language skills. These payments were contractual and pension contributions were deducted in respect of them. In November 2007 her employer introduced a new pay and grading structure. They sent Mrs B a written statement of particulars providing details of her new contract of employment and the terms relating to her pension from 1 April 2008, which included a "Statement of Additional Allowances" covering language increments. Mrs B accepted the changes made to the terms and conditions of her employment. Her employer informed her that they would continue to pay her a language allowance and deducted pension contributions from Mrs B's language allowance for a period, but these were later returned to her.

Mrs B took voluntary redundancy in April 2011. She complained that her pension benefits were calculated using a pensionable salary figure which did not take into account her language allowance.

Her employer said that when Mrs B's employment contract was amended in April 2008, her language increments were also reviewed. It was deemed that her language skills remained a demonstrable benefit to her current job but they were no longer a requirement of her role. Her language skills and allowance were consequently no longer contractual and pensionable after April 2008.

The scheme administrator said that it was the responsibility of the employer to specify in Mrs B's contract of employment which elements of her pay were pensionable. They relied on the provision of correct pensionable pay details to calculate Mrs B's early retirement benefits.

The ombudsman upheld Mrs B's complaint after examining the rules of the scheme and deciding that her employer had incorrectly excluded her allowance from her pensionable pay.

Although the scheme administrator may have been required to establish the correct pensionable pay for the purpose of calculating benefits, the essential error was made by the employer in determining that the allowance was excluded. The ombudsman directed that the employer notify the scheme administrator of the correct pensionable pay, taking into account the allowances paid, and arrange for a recalculation of benefits to be backdated to Mrs B's date of retirement, with interest from that date, plus a small amount for the distress and inconvenience caused.



**Entitlement to redundancy pension (1)**

Mr C complained that the trustees had wrongly refused to award him a pension when he was made compulsory redundant.

Mr C began employment with his employer in 1987 but did not join the scheme, although he was eligible to do so. Instead he took out a personal pension in 1990. Mr C had previously made a pensions mis-selling complaint against an insurance company about the advice he had received when he took out this personal pension. In settlement of that complaint, and based on guidance issued by the Securities and Investment Board (SIB), the insurance company had made a payment into Mr C's employer's pension scheme to compensate him for the incorrect advice it gave him back in 1990.

Mr C joined his employer's scheme in May 1998 and the trustees accepted a payment from the insurance company on 7 October 1998. They informed Mr C that his date of joining would be the actual date his membership commenced in May 1998. The trustees did not backdate Mr C's date of joining when it accepted the compensation payment into the scheme, but used it to buy additional pensionable service credit.

Mr C was made redundant in 2010 and was told by his employer that he would not receive a compulsory redundancy pension payable to those who joined the scheme before 1994. Mr C wrote to the scheme informing them that he had been made redundant and wished to claim his pension as he was 55 years old and had had service reinstated to 1990.

The employer said that it was the trustees' decision that Mr C's membership started from 1 May 1998 – they had no say in the matter. They restricted the availability of the redundancy retirement pension to employees who joined the scheme prior to 1 January 1994.

The ombudsman decided that the complaint should be upheld against the trustees and employer for not correctly reinstating Mr C's pension rights and not paying him the benefits he was entitled to. As neither Mr C nor the insurance company were aware that Mr C was being offered reinstated benefits under different terms, they could not arrange for separate augmentation of his personal pension scheme to factor in the redundancy pension. The employer and trustees were directed to set things right by funding and setting up a redundancy pension for Mr C.

### **Entitlement to redundancy pension (2)**

After a tender process the occupational health department within which Mrs D worked was due to be transferred to another body, some distance away, under TUPE. But only one-half of Mrs D's role would transfer.

Mrs D left employment after signing a compromise agreement with the employer. The background section of the compromise agreement said that she had agreed that employment would terminate by means of voluntary redundancy. However the actual terms of the agreement said that the employment would terminate by reason of mutual agreement between the parties.

The rules of the scheme provided for immediate unreduced benefits to be paid where the member was dismissed by reason of redundancy or on the grounds of business efficiency and was also over the age of 55.

Shortly after leaving employment Mrs D was told by the scheme administrator that she would receive immediate unreduced pension benefits. Around two weeks later she was told that this was incorrect as she had resigned voluntarily. She disputed this.

Mrs D said she had been employed in a full-time post. She had been very surprised to find that only half of her post would transfer under TUPE and the other would remain with the employer. She had expected that her full-time post would go to the new body. As far as she was aware she was leaving due to voluntary redundancy as said on the agreement. She had never resigned her post or written a letter of resignation.

The employer said that their payroll team had given the scheme administrator an incorrect reason for Mrs D leaving employment, which was later corrected by them. They gave inconsistent submissions about the nature of Mrs D's role and their ability to transfer only half of her role, but insisted that she was not in a redundancy situation and would have been dismissed had she refused the transfer of half of her role.

The ombudsman referred to the statutory definition of redundancy from the Employment Rights Act 1996 and said that as a matter of law the TUPE regulations applied to her whole employment. Mrs D clearly had one full-time employment contract. The intended arrangement was not, and could not have been, subject to TUPE regulations, in that Mrs D could not have been required to take up the transferred half, nor accept a reduction in hours with the employer.

As Mrs D could not have been required to do either she would have needed to have been redeployed or been made redundant. The settlement entered into avoided both. In not needing to redeploy Mrs D this must have been effectively in the interests of business efficiency. Under the regulations that governed the scheme this would entitle Mrs D to an immediate unreduced pension.

#### **Note**

In a separate case, one of Mrs D's colleagues, Mrs E, made a similar complaint. Her case was upheld, but only to the extent that an incorrect reason for leaving employment was given on the notification sent to the scheme administrator and this caused distress and inconvenience. The ombudsman concluded that Mrs E had no entitlement to an immediate unreduced pension as she did not leave in circumstances which qualified her for one. She was not made redundant. There was no proposal for the work she undertook to cease or diminish; rather her role was to transfer to a new provider.

## Misunderstandings and misinformation

### **A case in which an investigator's opinion was accepted**

Mr F, a pensioner member of a defined benefit pension scheme, complained that he was refused permission to take an additional lump sum from the scheme. His pension came into payment in late 2011 and he took a lump sum then. His lump sum and annual pension were both around £1,500.

In 2012 Mr F asked the scheme to pay him a further lump sum on the grounds that he needed it to meet a pressing family expense. The scheme said that it could not do this – it could only pay benefits in line with the rules of the scheme.

Mr F said that the scheme's failure to properly inform him about the rules that applied gave rise to his belief that he could access benefits as and when he chose, like a deposit account.

The investigator gave a formal opinion, saying that Mr F had been given his correct benefits as per the scheme rules. The investigator said the scheme had provided Mr F with a booklet and his annual statement, both of which set out his entitlement. The investigator did not doubt that Mr F believed he could access his pension benefits when he chose to, but concluded that this was not because the scheme had failed to provide proper information.

Although Mr F was disappointed with the investigator's opinion, he accepted it.

## Overpayments

### **Payments from an income drawdown plan – recovery of overpaid sums would not be equitable**

In early 2007 Mr G decided to amalgamate several policies he held into an income drawdown plan with one provider. The total value of these plans was about £81,500.

During 2007 Mr G received three lump sums as various policies were transferred into the new plan. He was initially told that he had been overpaid by around £14,350, but that this could be offset against the value of funds yet to be received from another provider. He received two further lump sums after that – in total around £45,350. In 2008 he received correspondence confirming the monthly income payments to be paid in respect of his Plans. Mr G decided to sell his business and retire. He also gave £25,000 each to three children.

In May 2011 the administrator wrote to Mr G telling him that it had come to light that there had been overpayments to him in 2007 of around £35,000. If he chose to repay the overpayments they would be reinvested. If he did not repay them, he might be liable to a tax charge as they could be considered unauthorised payments.

Mr G said he should not have to repay the money. The overpayments had arisen solely as a result of errors by the administrator that he could not have known about. He added that it had taken years for him to be contacted – and in the meantime he had used the money, including making payments for deposits on houses purchased by his children. The administrator accepted that there had been errors and a payment of £500 was offered to reflect the poor service provided, but they said he should have queried the payment he received in 2007.

The ombudsman decided that the complaint should be upheld against the administrator because the overpayment arose due to their errors. The ombudsman was satisfied that Mr G had acted to his detriment and changed his position such that it would not be equitable to require him to repay the money. In particular he had decided, after analysing his finances, to give money away that he could not require be repaid to him.

The ombudsman directed that Mr G's fund value be reset as if the payments had not been made and also that, in the event that the payments led to a tax charge, the administrator should pay any tax due to HMRC.

### **Unpaid contributions and personal liability**

Mr H's complaint was that pension contributions had not been paid into the stakeholder pension scheme set up by his employer in the periods November 2008 to December 2009 and February 2011 to January 2012, despite the contributions having been deducted from his salary.

Mr H had worked for his employer since 2007 and before that with its predecessor company and was a member of their group stakeholder plan. His employment was terminated at the end of March 2012 and the company went into voluntary liquidation in April 2012. Mr H's pension contributions totalling £3,847.76 were not paid across to the pension scheme, even though they had been deducted from his salary. Mr H asked the ombudsman to find a particular company director personally liable for the missing contributions.

The non-payment of contributions had started in July 2008. The scheme administrator had informed the Pensions Regulator about the missing contributions and the company had submitted a repayment plan to the Pensions Regulator in November 2010. The Regulator said that they were not in a position to accept or approve any repayment plan and that the company was still in breach of employer payment regulations. However after further consideration the Regulator concluded that it would not be appropriate to use their powers at that stage. The employees agreed the plan. At the time of liquidation the repayment plan had not been completed and further contributions had been missed. The scheme administrator confirmed that the missing contributions covered two periods totalling 26 months.

Mr H had claimed a payment from the Redundancy Payments Office to cover pension contributions for February and March 2012. The administrator had also claimed a payment from that office for the period June 2011 to January 2012. The amounts recovered amounted to £1,283.36 leaving Mr H with a net shortfall of £2,564.40. The liquidators in a letter sent in May 2012 to all members and creditors said that unsecured creditors were unlikely to receive any dividend.

The ombudsman decided that the complaint should be upheld against the employer. The company had admitted that contributions amounting to £2,564.40 had not been paid into the pension scheme. However the ombudsman did not agree that the named director was personally liable for the pension contributions. There was no evidence that the director took it upon himself to carry out specific acts of administration in relation to the pension scheme above his usual role. Although he was a director of the company it was a limited liability company and Mr H and the other employees agreed to the repayment plan put forward. When the company went into voluntary liquidation the underpaid pension contributions which could not be recovered from the Redundancy Payments Office became a debt of the company and not the director personally.

It was unlikely that the company would pay its debts, but the ombudsman directed that in the event that it did have additional funds it should pay the outstanding contributions plus interest from the date each contribution was deducted to the date of payment.

## Ill-health early retirement

### Not following the scheme rules

Mrs I complained that her former employer and the trustee rejected her application for an ill-health early retirement pension. The ombudsman concluded that the employer and trustees did not identify their separate requirements for considering an application but instead designed a process out of keeping with the rules.

Mrs I worked for the employer for around 20 years until August 2009. She was a “protected member” of the scheme having joined before a change in the rules in July 1996. For a protected member, consideration as to qualification for benefits on incapacity under each set of rules was dealt with at the same time.

In July 2008 Mrs I was assessed by a medical officer who advised that she was not fit for work. The employer’s occupational health department was later involved and said their opinion was that she was not medically unfit for work. After a referral from the chief medical officer a consultant psychiatrist concluded that Mrs I should be on sick leave and that she would strongly support retirement on the grounds of ill-health consistent with the definition in the pre-96 rules.

The certification was set aside by a member of the employer’s staff on the grounds that the chief medical officer and Mrs I had worked together over a number of years and another referral was made. That resulted in a report which said that Mrs I was not permanently incapacitated from doing her job or a comparable job.

The secretary to the trustee wrote to a consultant occupational health physician referring to the last doctor as the individual appointed by the employer to advise the trustee of the scheme as the ‘medical officer’ under the Rules. The secretary asked for the completion of a certificate saying whether or not Mrs I should be granted an incapacity pension. The doctor concurred with the last referral that Mrs I was not permanently incapacitated. Mrs I was informed of the decision not to grant an ill-health pension and the company confirmed dismissal on the grounds of her inability to return to work for personal reasons.

The ombudsman found that the process which led to Mrs I’s application being rejected was faulty in several respects. The separate obligations of the employer and the trustee were not identified, and a process was designed that did not fit the rules and which allowed for trustee decisions to be made on their behalf and without their knowledge.

The pre-96 rules required that the trustee must be satisfied that Mrs I was suffering from injury or ill-health which incapacitated her permanently or for an indefinite period from doing her ordinary work. Neither the employer nor their medical officer had any role to play under the pre-96 rules, unless the trustee elected to regard a report from the medical officer as being “a report from a qualified medical practitioner approved by them”. And neither the employer nor the trustee had a decision making role under the post-96 rules – the trustee was bound to pay a pension if the employer’s medical officer certified accordingly.

It was unclear in what capacity the various medical advisers were giving advice and to whom they were giving it at several stages in the process. The consultant psychiatrist completed a certificate which would have acted as a report to the trustee under the pre-96 rules. But if that was intended to be a report for the trustee it never reached them because it was rejected by a person who did not have any authority to reject it.

The next commissioned report was defective, at least in relation to the post-96 rules, as the doctor was not the employer's medical officer. It transpired that the trustee first knew of the application during the dispute process which meant that there was a problem with delegations – it was possible for decisions to be made without the trustee's knowledge.

It was also clear from the wording of the rules that the certification should not be carried out by any medical officer but the most senior medical member of the employer's staff. Another concern was whether the pre-96 rules were correctly interpreted. One example was that Mrs I's incapacity did not need to be likely to be permanent – it could have been "indefinite" and at no point had that expressly been in the mind of any person who had considered the matter. Also, the pre-96 rules required that the trustee reach its own decision but the doctor's decision had been regarded as being determinative.

The ombudsman said that given the lapse of time and the nature of the defects the direction should be to treat the original certificate in Mrs I's favour as having been accepted. So the ombudsman required that the trustee pay the instalments of benefits that Mrs I would have received for the two years after her service terminated. The ombudsman further directed the trustee to consider whether Mrs I would have qualified for continuation of that pension under the pre-96 rules properly construed. Both the employer and trustee were also to make a payment for the distress caused.

## Death benefits

### **Trustees wanting a discharge of liability before making payment**

Mr J's father had a SIPP and after he died the trustees awarded Mr J 50% of the discretionary death benefits payable, around £180,000. They told Mr J that he would need to sign a discharge form to receive the money.

Mr J was happy to accept the sum but queried the need to sign the discharge form. The trustees explained that they wanted it to protect themselves against any future claims on the SIPP made by Mr J or his heirs. However Mr J continued to refuse to provide it, wanting to be sure that there would be no successful legal action by a relative (the other SIPP beneficiary) in respect of Mr J's late mother's estate – of which he was the sole beneficiary.

The ombudsman found that it was not unreasonable for the trustees to require a discharge form, which was consistent with a reasonable wish to protect themselves against litigation.

**Missing nomination form found – trustees seek to recover payments made beforehand**

The trustees of the scheme paid out the proceeds of the plan to the deceased member's three sons, one third each. The children were all in full-time education and one was under the age of 18.

Later they asked the sons to return some of the money. They had discovered the deceased member's death benefit nomination form, which had been misfiled at the time of the decision. It asked for his benefits to be split equally four ways between his three sons and his partner at the time he died. The trustees made the quarter payment to the partner.

The sons had appointed solicitors to act on their behalf, who queried the need to repay any money. The trustees said that they were bound to follow the member's wishes, they had paid out too much money and that "under the laws of restitution" they were entitled to recovery, and would take action.

The ombudsman concluded that the trustees were not able to put aside their original decision unilaterally. The ombudsman said if the exercise by the trustees of the discretionary power was within its terms, but the trustees had in some way breached their duties in respect of that exercise (by either failing to take into account a relevant factor or by considering irrelevant factors), then the exercise of discretion was not void, but was voidable.

There had been no decision from a court (or ombudsman) setting aside the original decision made by the trustees and so the original decision remained valid. They could not seek to recover any monies.

Also there was no obligation to pay benefits in line with the member's wishes. The trustees only needed to take the nomination form into account and were not bound by it.

The trustees were directed not to pursue recovery of any monies unless their decision was set aside. They were directed to inform the sons if they intended to apply to set aside their original decision.

The ombudsman also directed the payment of legal fees incurred up to the point that the matter reached us. The involvement of solicitors was a direct consequence of the mistaken attempt to recover the money. This was not a case in which there had been an overpayment which was potentially recoverable, and where the burden of a defence to recovery lay with the recipient. The sons should not have had to defend themselves at all.

## Self-invested Personal Pensions (SIPPs)

### **Trustees/administrator not responsible for the failure of investments**

Mr K (and others) said that the trustees/administrators had failed to act in accordance with the terms and conditions of the SIPP by carrying out inadequate due diligence on investments in unquoted shares of overseas property companies. These companies had later got into financial difficulties and there was little prospect of recovering any of the money invested. In particular Mr K and the others said that the administrator/trustee did not check that their investment instructions had been implemented correctly by obtaining contract notes/documents for all their overseas investments and also did not supply them with current valuations for the SIPP. If they had been aware that there was no evidence that their money had been properly invested, they would have discussed this with their financial adviser and discovered the false nature of the investments.

When the applicants had joined the SIPP they had each signed a declaration that they would be solely responsible for all decisions relating to the purchase, retention and sale of the investments forming part of the SIPP. Documentation provided also said that valuations and statements for the investments made would depend on the providers of these investments and members would need to agree this with them. Contract notes would be passed on by the administrator where received.

The ombudsman did not uphold the complaint as the respondents had fulfilled their limited obligations under the SIPP and were not responsible for losses suffered by the applicants. The investments in question were recommended by a financial adviser. The SIPP documentation which the applicants received before deciding whether or not to become a member clearly showed that the administrator would only supply yearly transaction summaries and statutory money purchase illustrations. It also said that the provision of valuations and statements for their chosen investments would be the responsibility of the investment providers and the onus was on the applicants to contact these providers for them.

The applicants had therefore been made sufficiently aware that the administrator would not be responsible for providing them with regular valuations.

The documentation did not state that the administrator would be responsible for ensuring that the investment providers supplied contract notes/documents confirming ownership of the chosen investments. It had only said that they were required to pass them on if they received them. The applicants, or their adviser, must have known they themselves did not have any contract notes or other documents and the administrator was not liable for anything that flowed from their absence. But anyway there was no link between the lack of contract notes/share certificates and the subsequent failure of the corresponding overseas investments.



## Winding up

### **An unreasonable delay in winding-up the scheme amounted to maladministration – delay reported to the Pensions Regulator**

Mrs L complained that the trustees and administrator had failed to pay the benefits that were due from her 60th birthday in August 2009, despite her contacting them a number of times.

In September 2006 Mrs L was informed that her employer had decided to discontinue the scheme, which had commenced winding-up. The letter also said that the scheme's administration managers and consultants had been appointed to carry out a reconciliation of the members' accounts and individual fund values and to advise members of their options. Mrs L had not received any further communications regarding the progress of the wind up or her options by her 60th birthday in August 2009, when her benefits were due to be paid.

Mrs L contacted the administrators about her benefits in 2009 and followed this up with continued calls and letters to them in 2010 and 2011. She was told repeatedly that there was still work to be done on the wind up of the scheme. After Mrs L complained about the delay she was told that there were "wider issues with the Trustees". She was informed that the two trustees of the scheme were not professional trustees and relied on their advisers. The administrators did not answer a query as to whether the Pensions Regulator was aware of the delay. By 2013 the trustees were still not able to give any indication of when Mrs L would receive her benefits and so she raised a complaint with this office.

During the investigation it was established that delays related to the non-investment of contributions since 1 August 1994. Before then the contributions were invested in a with-profit contract with an insurance company. Due to developments with the insurer's database it was not possible to continue paying contributions to their with-profit fund after 1 August 1994, with contributions since that time remaining in the trustees' bank account. The value of Mrs L's account with the insurer for contributions before 1 August 1994 and the value of her contributions in the trustees' bank account were both known. The advisers had recommended to the trustees that the value of Mrs L's contributions within the bank account be increased to allow for an investment return, in line with that which would have been achieved in the with-profit fund. The trustees had not agreed to this proposal causing the continuing delays in the settlement of Mrs L's benefits.

The ombudsman upheld the complaint against the trustees and administrators as they had delayed the finalisation of Mrs L's benefits and not acted reasonably in their dealings with her. The failure to invest the contributions from August 1994 was considered to be maladministration and the period taken to wind-up the scheme was also so unreasonable as to amount to further maladministration. Both the trustees and administrators were considered equally culpable of not putting Mrs L's benefits into payment. They were directed to offer Mrs L the retirement options she would have been entitled to at age 60 and to jointly bear the cost of putting Mrs L back into the position she would have been in if matters had been actioned correctly, as well as paying her a distress and inconvenience payment of £700 each.

The scheme was a defined contribution scheme and the Pensions Regulator would normally expect wind-up to be completed within two years. However it had been going on for seven years and still was not completed. The Ombudsman decided that the matter should be reported to the Pensions Regulator.

## Pension sharing on divorce

### **Ex-spouse's share of fund not properly recorded, meaning that she was denied her share**

Mrs M's complaint was that the scheme administrator for her ex-husband's pension plan allowed him to transfer to another pension plan while the first was subject to a pension sharing order awarding her 50% of the transfer value.

At the time of the divorce, Mrs M's solicitors had submitted the necessary documentation to show there was a pension sharing order in place, and this was acknowledged by the administrator. The administrator later said that they needed Mrs M's instructions on how to give effect to the pension credit. Mrs M said she received no further communication from her solicitors or the administrators about this.

In April 2008 the administrator was contacted by Mrs M who asked for a pension credit transfer form. Two days later the administrator received a telephone call from her ex-spouse's IFA requesting a transfer value and discharge forms. The administrator subsequently received the ex-spouse's completed discharge form and transfer payment request. The administrator paid the plan's total transfer value of £32,303.25 to another provider in May.

In June the administrator said that since making the payment to the new provider they had discovered a pension sharing order was in place at the time of the transfer. They therefore requested a return of the full transfer paid so that 50% of the fund could be apportioned to Mrs M. After contacting the various parties involved the administrator agreed to write to Mr M and to Mrs M to explain the situation and to ask Mr M to return any monies he had been paid. It appears this did not happen.

In 2011, when Mrs M contacted the administrator again, there was no record that any transferred monies had been returned. The administrator sought to argue that they had done nothing wrong and that they could not implement the pension sharing order without instructions from Mrs M. They also said they had not been provided with her contact details.

The ombudsman upheld the complaint against the administrator for failing to properly record that a pension sharing order applied to the plan. Whilst they could not implement the order without further instructions from Mrs M, they had made several mistakes or omissions all of which amounted to maladministration. These included: the failure to properly record that a pension sharing order applied to Mr M's Plan; linking Mrs M's request for transfer forms and Mr M's subsequent transfer request; notifying Mrs M that Mr M had requested a transfer and asking Mrs M what she wanted to do with her share of the fund; promptly reaching a resolution or staying in contact with the provider that accepted the transfer of the fund proceeds once they had realised the plan was subject to a pension sharing order. The administrator was directed to calculate the current fund value of 50% of Mr M's transfer value, notify Mrs M of this amount and then ask her to tell them where she wished it to be paid to.

**Pension Protection Fund  
Ombudsman casework review**

## Section 4: Pension Protection Fund Ombudsman casework review

### The Pension Protection Fund Ombudsman's jurisdiction

#### *PPF maladministration*

We can investigate and determine complaints of maladministration on the part of the PPF. This year we have investigated complaints about the amount and level of benefits being paid.

#### *PPF reviewable matters*

We can review decisions made by the Board of the PPF, but only after they have been reviewed by the Board of the PPF and then considered by their Reconsideration Committee. Complaints about the way the PPF levy has been calculated fall into this category.

#### *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 sub-divided 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. We have provided some examples of how we approach these cases later in this report.

## Our workload

	In hand at 1/4/13	New matters	Accepted for investigation	Not accepted for investigation	Completed investigations	In hand at 31/3/14
PPF Maladministration	1	11	2	9	1	2
PPF Reviewable matter	8	19	15	7	13	7
FAS appeal	6	30	14	16	10	10
Total	15	60	31	32	24	19

## Possible changes

Presently the Parliamentary Ombudsman has jurisdiction over maladministration by the PPF as the FAS manager. We do not. In 2011/12 the DWP consulted on draft regulations which would have moved that jurisdiction to the Pension Protection Fund Ombudsman. They have not been enacted. The present arrangements can have unsatisfactory consequences as our second case study shows.

The 2010 Cabinet Office Review of Public Bodies recommended that the statutory offices of Pension Protection Fund Ombudsman and Pensions Ombudsman should be combined. One of the recommendations made in the DWP Triennial Review of pensions non-departmental public bodies published in January 2014 was that the uncertainty surrounding the merger should be resolved.

## Case summaries

### Referral of PPF levy calculation

#### **Late notification of debt reduction contributions**

The referral related to the calculation of the scheme's risk-based levy for the year 2012/13 and subsequent reviews by the PPF Board in November 2012 and January 2013. The trustees and the company asked for a review for a number of reasons. One was that the applicants were conscious of the funding level of the scheme and had made significant contributions to strengthen this position. These "deficit reduction contributions" (DRCs) however were not notified to the PPF within the relevant timescales. They should have been submitted by 10 April 2012 but were not submitted until September 2012. The trustees attributed this to a problem with their appointed adviser. The DRC certificates were completed within the specified deadline and the DRC was paid within the relevant timescale for it to result in a lower levy had the certificate been submitted. They considered that the data held on the PPF database was materially incorrect and, in light of action taken to reduce the scheme deficit, they wished the PPF to acknowledge this and review the levy to reflect this.

The ombudsman's view was that the rules had been interpreted correctly by the PPF. For the DRC to have counted in the calculation for the levy year 2012/13, a certificate had to be submitted by the "Measurement Time" of 5pm on 10 April 2012. That had not happened.

Whilst there were certain discretions available to the PPF Board enabling it to review and revise a scheme's levy, the circumstances in which those discretions could be exercised did not arise. The DRC certificate was not submitted within the specified timeframe because of a problem with the advisers and the rules did not cater for such circumstances. They also made clear that data used to calculate a levy was not to be considered incorrect in a material respect where it was correct in itself but there was the option for the trustees to submit different or additional data which might have resulted in the levy being lower. Since the submission of a DRC certificate was optional, the risk-based levy could legitimately be calculated without reference to a DRC. On this basis the data was not incorrect in a material respect and the levy had not been incorrectly calculated.

## FAS appeal

### **Whether benefits from a transfer were defined contribution or defined benefit**

Mrs N maintained that her spouse's pension was a defined contribution benefit, and should not have been taken over by the FAS. Her FAS assistance was considerably less than her pension had been.

Mrs N's late husband was the company chairman. He originally belonged to the company's defined benefit (DB) scheme, but in 1987 he transferred to the company's DC scheme. He died a few months later. The DC scheme subsequently paid a transfer value to the DB scheme, to enable Mrs N's pension and lump sum to be paid from the DB scheme, because its maximum benefits were higher than those available from the DC scheme.

In 2011 the DB scheme was taken over by the FAS. The PPF treated the spouse's pension as a DB benefit and thus eligible for the FAS. The appellant argued that although her pension had been paid from the DB scheme and received DB increases, it was based on membership of the DC scheme and was really a DC benefit.

The ombudsman decided that given the unusual circumstances, including transferring the benefits of a deceased member, the PPF's decision was not wrong.

Mrs N also complained of maladministration by the FAS. As we don't have jurisdiction to deal with this type of complaint we told her she would have to raise this with the Parliamentary Ombudsman.



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## **The courts**



## Section 5: The courts

### Appeals

Determinations of the Pensions Ombudsman and Pension Protection Fund 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.

#### Pensions Ombudsman appeals

<b>Outstanding at the start of the year</b>	<b>4</b>
New	10
Heard/settled/withdrawn during the year	8
<b>Remaining at the year end</b>	<b>6</b>

#### Pension Protection Fund Ombudsman appeals

<b>Outstanding at the start of the year</b>	<b>1</b>
New	2
Heard/settled/withdrawn during the year	2
<b>Remaining at the year end</b>	<b>1</b>

#### Right of appeal

Appeals to the High Court in England and Wales against a determination of either the Pensions Ombudsman or the Pension Protection Fund Ombudsman are subject to the Civil Procedure Rules (CPR). This has historically been an automatic right but we were notified during the year that the Civil Procedure Rule Committee was considering introducing an amendment to the CPR making the exercise of the right subject to the court's consent. We understand that the judiciary had expressed concerns about appeals made by litigants-in-person seeking to reopen issues of fact rather than raising issues of law – and about the risks they then face of having costs awarded against them. The amendment has now been brought into effect so that, from 6 April 2014, a party applying to the court will require the consent of the High Court for any appeal against a determination or direction in England and Wales.

Until now the number of new appeals each year has been relatively consistent. It is hard to predict what effect, if any, this new requirement will have on the number of new appeals in 2014/15. We are not aware of any proposed changes to the equivalent rules in Northern Ireland or Scotland.

#### A rare but occasional problem

Although the CPR requires a copy of the appeal notice to be sent to us, this does not always happen. We monitor the progress and outcome of appeals for a variety of reasons – for example, so that we can decide whether or not to apply to participate before the hearing, for learning purposes and so that we know the issues to address if the case is remitted for reconsideration. In one case decided in Wales we were only informed of the appeal and the outcome some time later when contacted by the solicitor for the appellant. It transpired that the appeal had been successful and the case remitted for an aspect to be reconsidered with a direction that the case should be dealt with by a different ombudsman. This was potentially

an issue of importance to us and had cropped up in an appeal last year<sup>4</sup>. As we did not know why the judge had made the direction we considered applying for leave to appeal to the Court of Appeal pending the availability of the transcript. In the event, we decided not to do so for pragmatic reasons as the recollection of the parties' representatives was that this had only been raised in the last minute at the hearing and had not been a point of substance.

### **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.

This year we participated in a Pensions Ombudsman appeal which was heard in March, but which has not yet been reported<sup>5</sup>. One of the grounds of appeal concerned the meaning of the word maladministration. It was argued, contrary to the finding in the determination, that the provision of incorrect information generated by an administrator's computer system could not be maladministration. As our jurisdiction specifically concerns the concept of maladministration, which is not a statutorily defined term, we considered it essential to participate in the appeal in order to address the court on the point. This was done with the consent of the parties and by written representations. The appeal was dismissed and permission to appeal to the Court of Appeal refused. The appellants were given 21 days from the transcript becoming available to apply to the Court of Appeal against the judge's refusal of permission. We do not yet know whether an application will be made.

Last year we mentioned that we intended to apply to participate in an appeal by the PPF against a determination of a reviewable matter as the appeal raised issues about our jurisdiction and powers.

The case was a levy calculation case. The PPF's grounds for appeal were that the determination contained: errors of law – the ombudsman had mis-construed the relevant rules; the directions made when the case was remitted back to the PPF; the exercise of powers which were claimed to be outside the scope of our powers (waiving interest) and; an award for costs which was claimed to be contrary to the rules of natural justice.

With the consent of the parties we applied to participate and made submissions at the hearing about what we thought we may investigate and determine when deciding whether the PPF has applied the correct failure score for an employer; what we may investigate and determine when deciding whether information used in a levy calculation was incorrect in a material respect; whether, we were entitled to direct the basis on which the levy should be calculated; whether we have jurisdiction to deal with matters relating to interest and; whether we had jurisdiction to award costs in the circumstances of the case.

Although the appeal was successful<sup>6</sup> and the decision of the PPF's reconsideration committee upheld, we considered that the outcome provided some helpful clarification for the future, not only for us but also for other interested parties, particularly as this was only the second appeal against a PPF Ombudsman determination. The decision usefully identified the limits of our jurisdiction in relation to looking behind the PPF's calculation of the levy. A possible result of this is that the already small number of complaints we receive about the levy will fall.

### **Repeat appeals**

When a case is remitted (following a successful appeal) and decided a second time that is usually the end of the matter, whatever the outcome of the second determination. Occasionally, however, an unsuccessful party will lodge a second appeal against the subsequent determination. This year we received one such appeal and notice of another pending appeal.

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<sup>4</sup> Primary Care Trust v Leach and another ([2012] EWHC 3136 (Ch))

<sup>5</sup> Our ref PO-85454/1

<sup>6</sup> The Board of the PPF v the Trustees of the West of England Ship Owners Insurance Services Limited Retirement Benefits Scheme and another [2014] EWHC 20 (Ch)

The latter concerns the complaint brought by Mr Bradbury against the BBC about the imposition of a cap on pensionable salary through the mechanism of his pay award. The complaint was first determined in October 2011 and was not upheld. Mr Bradbury appealed and, in July 2012, Mr Justice Warren largely dismissed the appeal<sup>7</sup> but left one point outstanding which he remitted for consideration i.e. whether the BBC had acted in breach of its “Implied Duties”. In the meantime he ordered that the appeal be stayed and that the time for seeking permission to appeal to the Court of Appeal be extended until 42 days from the date of the outcome of the second determination. This was issued on 23 December 2013. The complaint was not upheld. We have since been informed that Mr Bradbury intends appealing to the Court of Appeal against Mr Justice Warren’s judgment and to the High Court against the latest determination. The process is uncertain as the situation is somewhat unusual and we await further developments.

## 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.

This year we received one new judicial review application. As the application was made towards the end of the year it had not yet reached the stage where the court decides whether to give permission for it to proceed.

## Challenging our jurisdiction – acting as an administrator

The appeal by the Government Actuary’s Department (GAD) mentioned in last year’s Annual Report was heard by the Court of Appeal in July 2013. The appeal was against the decision of Mr Justice Ouseley in June 2012 upholding our decision that GAD was an administrator in relation to its actions prior to April 2005 in respect of the Fire Fighters’ Pension Scheme<sup>8</sup>. The Court of Appeal (which included the Master of the Rolls) unanimously rejected the appeal, essentially for the same reasons as Mr Justice Ouseley<sup>9</sup>. This opened the way for the lead case to be investigated. The outcome is likely to affect a significant number of other members of the Fire Fighters’ Pension Scheme and the Police Pension Scheme.

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<sup>7</sup> Bradbury v British Broadcasting Corporation [2012] EWHC 1369(Ch)

<sup>8</sup> Government Actuary’s Department v Pensions Ombudsman [2012] EWHC 1796 (Admin)

<sup>9</sup> Government Actuary’s Department v Pensions Ombudsman [2013] EWCA Civ 901



**6**

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**Our people**

## Section 6: Our people

### Ombudsmen

The holders of the posts of Pensions Ombudsman and Deputy Pensions Ombudsman are statutory commissioners rather than employees. Tony King, the Pensions Ombudsman, has overall responsibility for the management of the office, and deals with casework. Jane Irvine, Deputy Pensions Ombudsman, is a part-time appointment dealing with decisions without general management responsibilities. In the year she worked just under half full-time equivalent. From November, with the agreement of the Office of the Commissioner for Public Appointments the Secretary of State for Work and Pensions made a special short term Deputy Pensions Ombudsman appointment of Kim Parsons, our Casework Director, to deal with additional cases coming through from our teams. She worked about half a day a week as Deputy Pensions Ombudsman from November to March.

### Staff

	At year end		
	2011/12	2012/13	2013/14
Full time equivalent			
Actively in post	34.1	33.1	30.5
On long term leave	1	1.6	0
Vacancies	1	1	4
Total	36.1	35.7	34.5

Over the year our average permanent full-time equivalent staffing level (excluding the ombudsmen) was 35. To that must be added temporary staff – an average of 5.1 full-time equivalent over the year. Out of the average staffing level of 40.1, 35.3 were engaged directly in casework, or casework management.

We are a small organisation with a fairly flat structure, so we can only offer limited promotion opportunities to our staff. It is gratifying therefore that people tend to stay with us - our turnover is quite low. For example, out of 35 permanent employees in post at the end of the year, all but two had been with us for the whole year. That reflects the generally positive results of our annual staff surveys, discussed in more detail below – as perhaps does our low sickness absence rate of 1.4 days a year on average.

The unusually high number of temporary staff was because we had agreed with DWP short term funding for temporary investigators in 2012/13, which was carried forward into 2013/14. The intention was to reduce the time that investigations waited for allocation to an investigator. We had 4.3 full-time equivalent temporary case work staff averaged over the year. They completed between them about 200 investigations that would not have been dealt with otherwise. However, because the number of new investigations in the year was higher than expected, the reduction in waiting time was not as we would have wished.

Gender breakdown at 31 March 2014	Male	Female
Ombudsmen	1	1
Senior Managers	2	4
Employees	15	11

### Representation

We have a Staff Communication Forum with elected representatives from “constituencies” around the office. In 2013/14 it met four times.

Until 2007 staff pay and terms and conditions were tied to DWP's. Some staff were members of unions recognised by DWP and there were informal arrangements between the office and the Public and Commercial Services Union (PCS), but there was no direct recognition by the office (since there was no collective bargaining opportunity on those matters).

Since 2007 we have been able to determine our own pay and terms and conditions. In 2012/13 we began discussions with PCS about formal recognition. In May 2013, following a ballot in favour, we entered into a formal voluntary recognition agreement with PCS. Our joint negotiation committee subsequently met three times in the year.

## **Pay**

Annual pay reviews are subject to Treasury guidance and approval by the Secretary of State of Work and Pensions. We are therefore subject to the overall 1% cap on pay increases as the public sector generally. In 2013/14, following negotiations with PCS, increases were higher for our most low paid staff than for the others (with a view to matching the "London Living Wage" in the medium term).

We made modest non-consolidated performance related payments to higher performing staff. The total pot was about 1% of payroll.

## **Staff satisfaction**

We have been carrying out an annual survey in much the same format for four years. Over time there has been significant improvement in responses. For example, in the 2010/11 survey 47% agreed that they would recommend the office as "a great place to work", whereas this year over 65% agreed. Similarly in 2010/11 38% agreed that the office inspired them to do their best; this year it was 59%. And in 2010/11 only 32% felt that the office as a whole felt like a team; in 2013/14 it was 59%.

Overall, though, the results were very slightly less positive this year than last. We will be working with the Staff Communication Forum and PCS Union in this year to see what the causes might be and what needs to be done.

## **Training and development**

We co-ordinate and plan training and development through a small group formed of staff from across the office. At the beginning of the year, it devised a training plan, based on development needs identified during performance reviews and elsewhere.

In the year our own staff offered group internal sessions on:

- Local Government Pension Scheme ill-health cases
- appeals and judicial reviews
- overpayment cases

We arranged for external speakers to give group sessions on such topics as:

- self invested personal pensions and small self-administered schemes
- legal aspects of employment and pensions
- plain English and report writing

In addition staff went on a range of external courses and seminars, including:

- ombudsman and complaint handling practice
- automatic enrolment
- management skills

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## Other activities



## Triennial review

In the summer of 2013, DWP began a review of its pensions non-departmental public bodies (PO, PPFO, The Pensions Regulator and TPAS), complying with a Cabinet Office requirement that NDPBs are reviewed to make sure that their functions are necessary and that they cannot be better delivered by other means. We made submissions to the review team.

The report was published in January 2014. Importantly it said that PO and PPFO should remain as NDPBs and did not propose any substantial changes. It did make some recommendations all of which were consistent with our own submissions. Some preliminary work on the recommendations has been undertaken by us and by TPAS, but they all require input from DWP and others.

### Relevant review recommendations

The PO and the PPFO should continue with their current status as non-departmental public bodies

DWP should resolve the uncertainty surrounding the merger of the PO and the PPFO

DWP should arrange for a study of the customer journey through the complaints system

We, TPAS and DWP should work together to assess the effectiveness of each stage as a filter for the next, to ensure value for money and quality of experience for our customers

DWP and we should review the legal framework for our procedures to ensure they match up to current best practice

DWP should work with us and TPAS to test scope for greater integration of back office functions

## IT

Being as small as we are, we rely on external organisations to provide and support our IT infrastructure and systems. In 2012/13 we entered into a contract (under a standard Government framework) with SCC, part of Rigby Group plc. The infrastructure was to be based on SCC's "cloud" platform – in particular a new platform built to a level of security (known as "business impact level 3") that matched the fact that we hold some sensitive personal data related to complaints.

After a number of delays and difficulties referred to in the 2012/13 annual report, we went live on the platform in June 2013. At the same time we replaced most of our peripheral equipment – including substituting laptops and docking stations for our (very) old desktop PCs.

The security requirements had several unpredicted knock on effects. It felt to us as if the implementation of security had been somewhat over-engineered in order to meet exacting Cabinet Office standards which did not match our business. For example, we had limited or no access to websites that we needed, could not send emails in our preferred format and tripped over a range of other obstacles to effective operation. For related reasons, we were unable to use our scanners and could not install our intended HR software package.

There were many other minor irritations adding up to some annoyance – and one bigger problem, which was that our secure link to the cloud servers could be slow.

We felt that our regular review process with SCC was not resolving our problems. Not until we made very loud noises indeed did we feel that there was any progress. Since then, there has been an improvement, though a number of problems remain unresolved and we still feel as if we will have to push harder than we should to get them sorted out.

## Projects

For a relatively small organisation we had several significant projects on the go this year. They are:

- **IT fixes and improvements** – aside from the problems mentioned above, we had gone live with a new casework management system in 2012/13. Inevitably there were some things that did not work quite as expected and we have worked with iizuka, the casework management system's supplier, and SCC to address these.
- **Management Information** – the new case management system has been set up to provide us with better management information. We have been familiarising ourselves with how it works, ensuring the reports return accurate data, and identifying ways to factor the new information into our business planning.
- **Communications** – in 2013/14 with external support we began a project to develop a communications strategy and roadmap for our website, intranet and for e-based internal and external guidance, including publishing determinations. It will bear fruit in 2014/15.
- **Secure e-mail** – we have for some years been unable to use insecure internet email for some casework correspondence because it would contain sensitive personal data. We have now identified an off the shelf product which appears capable of resolving the difficulty (essentially through encryption without the need for the email recipient to have software at their end).

## Quality Management

We complete a range of quality checks looking at how well the case was handled at particular stages in our process, or overall.

For example we run checks on how well we dealt with the first contact made with our office, or how we handled the decision to investigate or not. We also look at whether our case handling processes have been followed, and when a case is completed overall how effectively we handled it.

Most of these checks are completed by peers (other investigators). Peer feedback can be very beneficial, with both the giver and the receiver getting some learning from it. And as part of their day to day work our investigators are used to applying judgement and assessing the information before them independently and impartially, so this is familiar territory for them.

However, we are finding that there is an increased burden of peer review work, so we plan to take on a quality and performance specialist in 2014/15.

## Liaison

### Public sector pension schemes

We meet representatives from the largest public sector schemes once a year at our offices. If the scheme wants us to, we will visit them half way through the year to discuss wider issues affecting that scheme, or pensions in general. We never discuss individual cases; maintaining our independence and impartiality is of vital importance to us.

The Local Government Pension Scheme, the Principal Civil Service Pension Scheme, the NHS Pension Scheme, the Armed Forces Pension Scheme, and the Teachers' Pension Scheme currently participate in this arrangement. The Pension Protection Fund and the Pensions Advisory Service also attend the annual meeting at our offices.

Among other topics, in 2013/14 we discussed the changes being made to public sector scheme rules, the impact of automatic enrolment, and the potential impact on our workload of both.

### **Provider forum**

We have newly set up a forum to discuss with pension providers (insurance companies etc) of pension schemes issues of general interest, in particular those which may potentially impact on our workload. We had our first meeting in the year. The main topic for discussion was pension liberation.

### **Liaison group**

Our Pensions Ombudsman liaison group, which is independently run, met twice during the year. The group is made up of representatives from professional and trade bodies such as the Association of Pension Lawyers, the Association of British Insurers, the Association of Corporate Trustees, the Association of Consulting Actuaries, the National Association of Pension Funds and others. It has proved a very helpful forum, acting as a sounding board when we want to discuss new ideas, providing feedback on industry issues or flagging up future sources of work for us. Legal firm CMS Cameron McKenna provide secretariat and other resources, for which we are grateful.

### **Working with other pension bodies**

Working with the Financial Ombudsman Service we recently revised the Memorandum of Understanding we have in place to clarify which types of pensions complaints each of us deals with.

We meet with the Pensions Regulator at regular intervals to discuss issues of mutual interest, for example automatic enrolment and pension liberation.

## **Customer satisfaction**

We completed our annual customer satisfaction survey, using the same format that we have for the last two years. So we now have comparable data over a three year period.

Over 500 responded, compared to around 300 on each of the previous two occasions. We asked people who had complained to us to complete relevant aspects of the survey whatever stage in the process their case had reached.

A very similar picture emerged to previous years. Generally it is easy to contact us and bring a complaint. 56% of those who responded were satisfied overall with the service received. But only just over a third of people were satisfied with how long it took us to deal with their case. So although we have made some progress in reducing the time it takes us to deal with cases, we have some way to go yet to manage or meet users' expectations.

## **Complaints about us**

We have a two stage formal process for dealing with any complaints about our service that cannot be resolved informally.

The first stage is a response from the manager of the staff member dealing with the matter. The second is usually a response from the Casework Director. (If the complaint is about the Casework Director, it will be dealt with by one of our ombudsmen.) 11 complaints went to stage 2.

It may be that what the person is really unhappy about is the outcome of their case. They might say the reasons for the decision are inadequate. Sometimes they will express their complaint as being about the impartiality or quality of the investigation. However, we cannot deal with anything that ultimately goes to the case outcome, including matters of jurisdiction. The test is whether the matter complained about could have been a ground of appeal or judicial review. If so, that is the proper route.

Examples of the subject matter were: the time it had taken us to reach a decision whether to investigate; wasting a person's time because we had not told them early enough that we could not investigate; our paper file not being maintained in good order; and that we had not looked into all the areas of complaint raised.

We upheld two of the complaints. In one we agreed that we could have kept the applicant better informed on the progress being made on the case. In another, because we accepted that the level of service we had provided fell way below an acceptable level, we very exceptionally agreed to change the investigator dealing with the case.

Where a person has complained about the service received, rather than the outcome of the case, they can go on to complain to the Parliamentary Ombudsman. We are not aware that the Parliamentary Ombudsman conducted any investigations concerning us in 2013/14.

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

**Tony King**  
Pensions Ombudsman  
Pension Protection Fund Ombudsman  
24 June 2014

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## Disclosures

## Statutory background

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

## Other interests

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

## Accounting and audit

The accounts have been prepared under a direction issued by the Secretary of State for the Department for Work and Pensions in accordance with Section 145(8)–(10) of the Pension Schemes Act 1993 and section 212A of the Pensions Act 2004.

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 read 'Tony King', with a large, stylized flourish at the end.

**Tony King**  
Pensions Ombudsman  
Pension Protection Fund Ombudsman  
24 June 2014

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## Financial Statements



## Section 9: Financial Statements

### 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 2012/13 (paid in the accounting year) the Ombudsman's payments included a bonus element of up to 10% of salary as assessed by the Departmental Steward on behalf of the Secretary of State.

#### Service contracts

The length of service contracts is determined by the Secretary of State for Work and Pensions. Tony King was reappointed for a further 4 years on 1 September 2013. Jane Irvine was reappointed on a part time basis for 3 years on 18 November 2012. Kim Parsons was appointed as temporary Deputy Pensions Ombudsman from 1 September 2013 to 31 March 2014. In that period the value of fees received fell in the salary band £nil to £5K.

Name	Dates of appointment	Unexpired term	Notice period
Tony King	1 September 2007	3 years 5 Months	6 months from employee
Jane Irvine	18 November 2009	1 year 7.5 months	6 months from employee

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

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

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

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

#### Salary and pension entitlements

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

The information in these tables has been audited.

**Single total figure of remuneration**

Officials	Salary (£000)		Bonus Payments (£'000)		Benefits in Kind (to nearest £100)		Pension benefits (£'000) <sup>1</sup>		Total (£'000)	
	2013-14	2012-13	2013-14	2012-13	2013-14	2012-13	2013-14	2012-13	2013-14	2012-13
Tony King	125-130	120-125	10-15**	10-15*	–	–	13	67	150-155	200-205
Jane Irvine	35-40	35-40	–	–	–	–	0	0	35-40	35-40

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

\*\* Paid in 2013/14 but earned in 2012/13

	2013-14 (£'000)	2012-13 (£'000)
<b>Band of Highest Paid Director's Total Remuneration</b>	135-140*	135-140*
<b>Median Total Remuneration</b>	36	34
<b>Ratio</b>	3.75	3.97

\* Does not include pension benefits.

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 2013/14 was £135,000 – £140,000 (2012/13 £135,000 – £140,000). This was 3.75 times (2012/13 – 3.97) the median remuneration of the workforce which was £35,675 (2012/13 – £33,865). The median having increased slightly due to the filling of a number of senior vacancies.

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

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

	Accrued pension at age 60 as at 31/3/14 (£'000)	Real increase in pension at age 60 (£'000)	CETV at 31/3/14 (£'000)	CETV at 31/3/13 (£'000)	Real Increase in CETV (£'000)
Tony King	55-60	0-2.5	1,100	1,070	12

Related lump sum at 31/3/14 and at pension age is Nil.

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

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

### Cash Equivalent Transfer Values

A Cash Equivalent Transfer Value (CETV) is the actuarially assessed capitalised value of the pension scheme benefits accrued by a member at a particular point in time. The benefits valued are the member's accrued benefits and any contingent spouse's pension payable from the scheme. A CETV is a payment made by a pension scheme or arrangement to secure pension benefits in another pension scheme or arrangement when the member leaves a scheme and chooses to transfer the benefits accrued in their former scheme. The pension figures shown relate to the benefits that the individual has accrued as a consequence of their total membership of the pension scheme, not just their current service in a senior capacity to which disclosure applies. CETVs are calculated in accordance with The Occupational Pension Schemes (Transfer Values) (Amendment) Regulations and do not take account of any actual or potential reduction to benefits resulting from Lifetime Allowance Tax which may be due when pensions benefits are taken.

### The real increase in the value of the CETV

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

### Civil Service Pensions

Pension benefits are provided through the Civil Service pension arrangements. From 30 July 2007, members may be in one of four defined benefit schemes; either a 'final salary' scheme (**classic**, **premium** or **classic plus**); or a 'whole career' scheme (**nuvos**). These statutory arrangements are unfunded with the cost of benefits met by monies voted by Parliament each year. Pensions payable under **classic**, **premium**, **classic plus** and **nuvos** are increased annually in line with 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 3.88% and 6.25% of pensionable earnings for **classic** and 5.88% and 7.46% for **premium**, **classic plus** and **nuvos**. Increases to employee contributions will apply from 1 April 2014. Benefits in **classic** accrue at the rate of 1/80<sup>th</sup> 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 1/60<sup>th</sup> 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 2013/2014, 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 2014 the percentages remain the same but the salary bands have changed slightly.

Band	2013 – 2014		From 1 April 2014	
	Salary Band (£)	Rate of charge	Salary Band (£)	Rate of charge
Band 1	21,500 and under	16.7%	22,000 and under	16.7%
Band 2	21,501 to 44,500	18.8%	22,001 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](http://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 have been audited.



**Tony King**  
Pensions Ombudsman  
Pension Protection Fund Ombudsman  
24 June 2014

## Statement of Accounting Officer's responsibilities

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

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

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

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

## 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

In the year, the Audit Committee consisted 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 were 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's internal audit and investigations team) and a DWP observer attend meetings by invitation.

The Audit 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 Audit Committee met four times during 2013/14. 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. Our internal governance arrangements are described below.

### Management team

#### Membership

Pensions Ombudsman  
Casework Director  
Business Manager  
Team Leaders (four)

**Purpose:**

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

Meetings are designated as Strategic Management Forum meetings, Management Team meetings or (from January 2014) Operational 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 last three months of the year Operational meetings were held monthly, in between Management Team meetings and deal mainly with project updates and related decisions.

In the year there were five meetings of the Strategic Management Forum, twelve ordinary Management Team meetings and three Operational 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 2014 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.

The risk management framework used during the year has been in place since 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; and
- regular monitoring and updating of risk information to ensure new and emerging risks are captured.

In January 2014, we revisited our approach to strategic risk management. We conducted some research into how other non-departmental public bodies were approaching this and we sought some input from DWP. Each member of the management team completed a questionnaire which captured the group's assessment of the level of tolerance the PO should have for risk and the level of exposure the PO currently faces.

Based on that information IAI facilitated a workshop where the management team;

- formed a collective view on the significant risks which threatened the achievements of our objectives and reputation;
- agreed their relative priority;
- identified which risks needed to be actively managed and which needed to be kept in view, in line with agreed risk tolerance; and
- identified who is responsible for managing each risk on a daily basis.

So although not in place in the reporting year, the outcome will be a more succinctly focused framework within which both strategic and operational risks will be managed.



There were no non trivial lapses of data security in 2013/14.

### **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".

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  
24 June 2014

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

I have audited the financial statements of The Pensions Ombudsman and Pension Protection Fund Ombudsman for the year ended 31 March 2014 under the Pension Schemes Act 1993 and the Pensions Act 2004. The financial statements comprise: the Statements of Comprehensive Net Expenditure, Financial Position, Cash Flows, Changes in 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 Board, 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, and express an opinion on the financial statements in accordance with the Pension Schemes Act 1993 and the Pensions Act 2004. I conducted my audit in accordance with International Standards on Auditing (UK and Ireland). Those standards require me and my staff to comply with the Auditing Practices Board's Ethical Standards for Auditors.

### **Scope of the audit of the financial statements**

An audit involves obtaining evidence about the amounts and disclosures in the financial statements sufficient to give reasonable assurance that the financial statements are free from material misstatement, whether caused by fraud or error. This includes an assessment of: whether the accounting policies are appropriate to The Pensions Ombudsman and Pension Protection Fund Ombudsman's circumstances and have been consistently applied and adequately disclosed; the reasonableness of significant accounting estimates made by the 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 and to identify any information that is apparently materially incorrect based on, or materially inconsistent with, the knowledge acquired by me in the course of performing the audit. 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 2014 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 Strategic Report and Disclosures 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 2014

## Accounts

The Pensions Ombudsman (Incorporating the Pension Protection Fund Ombudsman)

### STATEMENT OF COMPREHENSIVE NET EXPENDITURE

Year ended 31 March 2014

	Note	2013/14 £	2012/13 £
<b>EXPENDITURE</b>			
Staff costs	3	(1,908,283)	(1,984,598)
Depreciation	5	(348)	(1,881)
Amortisation	6	(67,052)	(9,100)
Other expenditure	4	(1,196,413)	(936,746)
<b>OPERATING DEFICIT</b>		<u>(3,172,096)</u>	<u>(2,932,325)</u>
<b>TOTAL COMPREHENSIVE EXPENDITURE</b>		<u>(3,172,096)</u>	<u>(2,932,325)</u>

All activities were continuing throughout the year.

The notes on pages 76 to 85 form part of these accounts.

The Pensions Ombudsman (incorporating the Pension Protection Fund Ombudsman)

## STATEMENT OF FINANCIAL POSITION

31 March 2014

	Note	2013/14 £	2012/13 £
<b>NON-CURRENT ASSETS</b>			
Property, plant and equipment	5	28,964	1,513
Intangible assets	6	<u>261,927</u>	<u>356,810</u>
<b>TOTAL NON-CURRENT ASSETS</b>		<b>290,891</b>	<b>358,323</b>
<b>CURRENT ASSETS</b>			
Trade and other receivables	7	70,333	35,850
Cash and cash equivalents	8	<u>227,154</u>	<u>145,372</u>
<b>TOTAL CURRENT ASSETS</b>		<b>297,487</b>	<b>181,222</b>
<b>TOTAL ASSETS</b>		<b>588,378</b>	<b>539,545</b>
<b>CURRENT LIABILITIES</b>			
Trade and other payables	9	<u>209,022</u>	<u>167,093</u>
<b>TOTAL CURRENT LIABILITIES</b>		<b>209,022</b>	<b>167,093</b>
<b>ASSETS LESS LIABILITIES</b>		<b>379,356</b>	<b>372,452</b>
<b>CAPITAL AND RESERVES</b>			
General reserve		<u>379,356</u>	<u>372,452</u>

The financial statements on pages 72 to 75 were approved on 24 June 2014 and signed by



**Tony King**  
Pensions Ombudsman  
Pensions Protection Fund Ombudsman  
24 June 2014

The notes on pages 76 to 85 form part of these accounts.

## The Pensions Ombudsman (incorporating the Pension Protection Fund Ombudsman)

**STATEMENT OF CASH FLOWS**

Year Ended 31 March 2014

	Note	2013/14		2012/13	
		£	£	£	£
<b>CASH FLOWS FROM OPERATING ACTIVITIES</b>					
Net expenditure after taxation		(3,172,096)		(2,932,325)	
Depreciation	5	348		1,881	
Amortisation	6	67,052		9,100	
Revaluation of non-current assets	5+6	27,949		369	
(Increase)/decrease in receivables		(34,483)		7,660	
Increase in payables		41,929		97,019	
Loss on disposals		817		–	
Net cash outflow from operating activities			<b>(3,068,484)</b>		<b>(2,816,296)</b>
<b>CASH FLOWS FROM INVESTING ACTIVITIES</b>					
Purchase of property, plant and equipment	5	(28,734)		–	
Purchase of intangible assets	6	–		(365,910)	
Net cash outflow from investing activities			<b>(28,734)</b>		<b>(365,910)</b>
<b>CASH FLOWS FROM FINANCING ACTIVITIES</b>					
Grants from sponsor department			<b>3,179,000</b>		<b>2,959,000</b>
<b>NET FINANCING</b>			<b>3,179,000</b>		<b>2,959,000</b>
Net increase/(decrease) in cash and cash equivalents in the year			<b>81,782</b>		<b>(223,206)</b>
Cash and cash equivalents at the beginning of the year			<b>145,372</b>		<b>368,578</b>
Cash and cash equivalents at the end of the year			<b>227,154</b>		<b>145,372</b>

The notes on pages 76 to 85 form part of these accounts.

## The Pensions Ombudsman (incorporating the Pension Protection Fund Ombudsman)

**STATEMENT OF CHANGES IN TAXPAYERS' EQUITY**

Year Ended 31 March 2014

	<b>General Reserve</b> £
<b>Balance at 1 April 2012</b>	<u>345,777</u>
<b>Changes in Taxpayers' Equity</b>	
Comprehensive expenditure for the year	<u>(2,932,325)</u>
Grant from sponsor department	<u>2,959,000</u>
<b>Balance at 31 March 2013</b>	<u>372,452</u>
<b>Changes in Taxpayers' Equity</b>	
Comprehensive expenditure for the year	<u>(3,172,096)</u>
Grant from sponsor department	<u>3,179,000</u>
<b>Balance at 31 March 2014</b>	<u>379,356</u>

The notes on pages 76 to 85 form part of these accounts.

## NOTES TO THE ACCOUNTS

Year Ended 31 March 2014

### 1. ACCOUNTING POLICIES

#### Basis of accounting

These financial statements have been prepared in accordance with the 2013-14 *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 2013-14

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 2014/15 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 2013/14.



## NOTES TO THE ACCOUNTS

Year Ended 31 March 2014

### 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 Revaluation 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 – Straight line over 5 years
- Leasehold Improvements – Straight line over the remaining life of the lease

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

During 2013-14 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 some IT Equipment being charged over a revised 8 years (7 years 2012-13). The impact of this change in accounting estimate is a £348 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 – Straight line over 5 years

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

#### 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.

## NOTES TO THE ACCOUNTS

Year Ended 31 March 2014

### 1. ACCOUNTING POLICIES (continued)

#### Pension arrangements

Past and present employees are covered by the provisions of the Principal Civil Service Pension Scheme (PCSPS) which is a defined benefit scheme and is unfunded and non-contributory, except in respect of dependants' benefits. 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 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 reports one operating segment to management for the entire organisation. As such there is no additional analysis requiring disclosure in the accounts.

## NOTES TO THE ACCOUNTS

Year Ended 31 March 2014

### 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 24 PPFO cases (2012/13: 21 cases) and 1115 PO cases (2012/13: 954 cases) were closed. Approximately 2% (2012/13: 2%) of expenditure (corresponding to £63,441 for the year ended 31 March 2014) is deemed attributable to the PPFO (2012/13: £58,646).

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 2014			31 March 2013
	Total	Permanently employed staff	Others	
	£	£	£	£
Wages and salaries	1,483,435	1,467,980	15,455	1,562,465
Social security costs	132,147	132,147	–	141,943
Other pension costs	282,029	282,029	–	280,190
Termination benefits	10,672	10,672	–	–
	<u>1,908,283</u>	<u>1,892,828</u>	<u>15,455</u>	<u>1,984,598</u>

The average number of staff employed during the period was 38 (2012/13: 39). The average number of other staff was 5 (2012/13: 3).

### 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 5.88% and 7.46% 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. 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 Pensions Ombudsman (incorporating the Pension Protection Fund Ombudsman)

# NOTES TO THE ACCOUNTS

Year Ended 31 March 2014

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](http://www.civilservice-pensions.gov.uk)

During 2013/14 employers' contributions of £282,029 (2012/13: £280,190) were payable to the scheme.

## The Pensions Ombudsman (incorporating the Pension Protection Fund Ombudsman)

### 4. OTHER EXPENDITURE

	Year ended 31 March 2014 £	Year ended 31 March 2013 £
Education and exams	740	349
Rent and rates	321,510	309,858
Insurance	2,554	2,766
Business continuity	13,392	14,944
Travel and subsistence	8,638	6,507
Telephone	2,122	3,387
Hire of equipment	13,450	11,538
Printing, stationery and postage	37,754	30,801
Staff training	18,620	14,850
Sundry expenses	9,993	3,246
Computer expenses	329,974	267,985
Subscriptions	54,729	50,964
Staff Recruitment	11,179	3,939
Legal and professional fees	309,169	176,922
Accountancy fees	12,360	16,860
Auditors' remuneration	20,500	20,500
Non-cash items:		
• Revaluation of fixed assets	27,949	369
• Loss on disposal of fixed assets	817	–
• Bank charges	963	961
	<u>1,196,413</u>	<u>936,746</u>

The auditors did not receive any remuneration for non audit work (2012/13: £Nil).

## NOTES TO THE ACCOUNTS

Year Ended 31 March 2014

### 5. PROPERTY, PLANT AND EQUIPMENT

	Information Technology	Leasehold Property	Total
<b>VALUATION</b>			
At 1 April 2013	112,559	–	112,559
Revaluation	(8,780)	–	(8,780)
Additions	1,514	27,220	28,734
Disposals	(60,782)	–	(60,782)
<b>At 31 March 2014</b>	<b>44,511</b>	<b>27,220</b>	<b>71,731</b>
<b>DEPRECIATION</b>			
At 1 April 2013	111,046	–	111,046
Revaluation	(8,662)	–	(8,662)
Charge for the year	348	–	348
On disposals	(59,965)	–	(59,965)
<b>At 31 March 2014</b>	<b>42,767</b>	<b>–</b>	<b>42,767</b>
<b>CARRYING AMOUNT</b>			
<b>At 31 March 2014</b>	<b>1,744</b>	<b>27,220</b>	<b>28,964</b>
At 31 March 2013	1,513	–	1,513
<b>VALUATION</b>			
At 1 April 2012	124,788	–	124,788
Revaluation	(12,229)	–	(12,229)
<b>At 31 March 2013</b>	<b>112,559</b>	<b>–</b>	<b>112,559</b>
<b>DEPRECIATION</b>			
At 1 April 2012	121,025	–	121,025
Revaluation	(11,860)	–	(11,860)
Charge for the year	1,881	–	1,881
<b>At 31 March 2013</b>	<b>111,046</b>	<b>–</b>	<b>111,046</b>
<b>CARRYING AMOUNT</b>			
<b>At 31 March 2013</b>	<b>1,513</b>	<b>–</b>	<b>1,513</b>
At 31 March 2012	3,763	–	3,763

Property, plant and equipment is revalued using indices.

## NOTES TO THE ACCOUNTS

Year Ended 31 March 2014

### 6. INTANGIBLE ASSETS

	Information Technology	Assets under development	Total
<b>VALUATION</b>			
At 1 April 2013	182,005	183,905	365,910
Transfer	183,905	(183,905)	–
Revaluation	(28,541)	–	(28,541)
<b>At 31 March 2014</b>	<b><u>337,369</u></b>	<b><u>–</u></b>	<b><u>337,369</u></b>
<b>AMORTISATION</b>			
At 1 April 2013	9,100	–	9,100
Revaluation	(710)	–	(710)
Charge for the year	67,052	–	67,052
<b>At 31 March 2014</b>	<b><u>75,442</u></b>	<b><u>–</u></b>	<b><u>75,442</u></b>
<b>CARRYING AMOUNT</b>			
<b>At 31 March 2014</b>	<b><u>261,927</u></b>	<b><u>–</u></b>	<b><u>261,927</u></b>
At 31 March 2013	<u>172,905</u>	<u>183,905</u>	<u>356,810</u>
<b>VALUATION</b>			
At 1 April 2012	–	–	–
Revaluation	–	–	–
Additions	182,005	183,905	365,910
<b>At 31 March 2013</b>	<b><u>182,005</u></b>	<b><u>183,905</u></b>	<b><u>365,910</u></b>
<b>AMORTISATION</b>			
At 1 April 2012	–	–	–
Revaluation	–	–	–
Charge for the year	9,100	–	9,100
<b>At 31 March 2013</b>	<b><u>9,100</u></b>	<b><u>–</u></b>	<b><u>9,100</u></b>
<b>CARRYING AMOUNT</b>			
<b>At 31 March 2013</b>	<b><u>172,905</u></b>	<b><u>183,905</u></b>	<b><u>356,810</u></b>
At 31 March 2012	<u>–</u>	<u>–</u>	<u>–</u>

Included in Intangible assets at 31 March 2014 are leased assets with a valuation of £337,369 and accumulated amortisation of £75,442.

## NOTES TO THE ACCOUNTS

Year Ended 31 March 2014

### 7. TRADE AND OTHER RECEIVABLES

	31 March 2014 £	31 March 2013 £
Other receivables	18,499	12,385
Prepayments	51,834	23,465
	<u>70,333</u>	<u>35,850</u>

There are no intra government balances.

### 8. CASH AND CASH EQUIVALENTS

	31 March 2014 £	31 March 2013 £
Balance at 1 April	145,372	368,578
Net change in cash and cash equivalent balances	81,782	(223,206)
Balance at 31 March	<u>227,154</u>	<u>145,372</u>

The following balances at 31 March 2014 were held at:

Commercial banks and cash in hand £227,021 (31 March 2013: £145,238).

### 9. TRADE AND OTHER PAYABLES

	31 March 2014 £	31 March 2013 £
Accruals	<u>209,022</u>	<u>167,093</u>

**PAYABLES: Balances with other Government bodies.**

	31 March 2014 £	31 March 2013 £
HM Revenue and Customs	70,234	76,809
	<u>70,234</u>	<u>76,809</u>

## NOTES TO THE ACCOUNTS

Year Ended 31 March 2014

### 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

	<b>31 March</b>	31 March
	<b>2014</b>	2013
	£	£
Obligations under operating leases comprise:–		
Not later than one year	<b>229,760</b>	64,987
Later than one year and not later than five years	<b>287,200</b>	–
	<u><b>516,960</b></u>	<u>64,987</u>

#### Other

	<b>31 March</b>	31 March
	<b>2014</b>	2013
	£	£
Obligations under operating leases comprise:–		
Not later than one year	<b>163,707</b>	223,850
Later than one year and not later than five years	<b>347,390</b>	405,686
Later than five years	–	115,027
	<u><b>511,097</b></u>	<u>744,563</u>

### 11. RELATED PARTY TRANSACTIONS

The Department for Work and Pensions is 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 £21,628 during the year (2012/13: £20,193). During the year the office accommodation was rented from HM Revenue and Customs at an annual cost of £300,248 (2012/13: £280,344). At 31 March 2014 £nil was due to the Department for Work and Pensions (2012/13: £nil) and £70,234 was due to HM Revenue and Customs (2012/13: £76,809). The Ombudsman's Internal Audit Services are provided by the Department for Work and Pensions and the annual cost was £23,418 for 2013/14 (2012/13: £18,900). At 31 March 2014 £nil was due to the Department for Work and Pensions (2012/13: £nil).

### 12. CAPITAL COMMITMENTS

Amounts contracted for but not provided in the accounts amount to £nil (2012/13: £nil).



## NOTES TO THE ACCOUNTS

Year Ended 31 March 2014

### 13. FINANCIAL INSTRUMENTS

It is, and has been, the Pension's Ombudsman's 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

	2014 Loans and receivables £	2013 Loans and receivables £
Cash and cash equivalents	227,154	145,372
Other receivables	18,499	12,385
	<u>245,653</u>	<u>157,757</u>
	2014 Measured at amortised cost £	2013 Measured at amortised cost £
Accruals	<u>209,022</u>	<u>167,093</u>

#### Liquidity risk

The Ombudsman's net revenue resource requirements are 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.

#### Credit risk

Credit risk refers to the risk that a counterparty will default on its contractual obligations resulting in loss for the PO. For cash equivalents PO only holds deposits with reputable entities (Barclays Plc). Other financial assets consist of receivables. Given the size and nature of these balances at year end the risk of default is deemed low.



## 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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