

# REVIEW OF PENSIONS INSTITUTIONS

## LEGAL & GENERAL'S RESPONSE TO THE MARCH 2007 PAPER

### 1. Introduction

1.1. This is the response of Legal & General to Paul Thornton's March 2007 paper "Review of Pensions Institutions – Consultation Paper – Emerging Issues". Legal & General is a major provider in the field of small and medium employer sponsored pension schemes. We have an approximately 10% market share for Group Personal Pensions and Group Stakeholder Pensions and extensive experience of operating defined benefit schemes. We have been heavily involved with both the Pensions Regulator (TPR) and the Pension Protection Fund (PPF) in their formative phases and the early days of their operations.

1.2. In view of the short timescale for responses we have limited our input consideration of the main "Are there benefits from bringing X&Y closer together" questions.

### 2. Is there a good case for bringing the PPF and TPR closer together?

2.1. For all the potential synergies and savings outlined in paragraph 21 of the paper our answer is "No". The two organisations have radically different functions and we can see only increased risks by bringing them together.

2.2. We agree that there is benefit to be had from the two organisations working closely together, especially since they collect, collate and perform analysis on many of the same data. The joint production of the Purple Book is a case in point. The establishment of a jointly owned and operated data and analysis function could result in cost savings and efficiencies but great care would have to be taken in prioritising its workload between the two sponsoring organisations.

2.3. There can however be no escape from the fundamental differences. PPF is an investment and administrative body with tax raising, but no regulatory, powers. TPR is a regulator with no administrative (other than of itself) functions and some of the activities which it regulates are similar to those undertaken by the PPF. This is a clear reputational risk.

2.4. Bringing together two organisations that collect separate levies from at least some of the same pension schemes for different purposes creates a risk of boundary blurring. The size of the PPF risk based levy is controversial and deeply unpopular with DB schemes. Any blurring might create a real or perceived situation whereby levies were pooled and used for whatever purpose was assigned the highest priority by the combined organisation at the time. Whatever reassurances and guarantees were offered the suspicion would remain and would be extremely counter productive.

- 2.5. The PPF by its very nature is totally dedicated to defined benefit provision. We are not sure that combining it with an organisation whose remit is the regulation of all types of private pensions provision would produce a very balanced outlook.
- 2.6. The potential of the recent High Court judgment in the “Parliamentary Ombudsman vs DWP” case to add significantly to PPF’s task list with the possible absorption of the Financial Assistance Scheme means that the PPF is even less fully fledged. This would not be a good time to consider other major changes.
- 2.7. We endorse many of the “no change” arguments set out in paragraph 22 of the paper, in particular:
- 2.7.1. “However, both organisations have further development of their functions to undertake, and there is limited substantive evidence to date on which to base any change. Early organisational change could distract both bodies from building successfully on their initial achievements, impact delivery and undermine confidence in the 2004 Act regime.”
- 2.7.2. “Each body has developed a distinctive skill set and culture.”
- 2.7.3. “PPF’s approach to risk assessment could be compromised by being part of a combined organisation with broader objectives. This seems to me to be a particularly important issue and requires close examination.”
- 2.7.4. “There would be an acute reputational risk to a combined body with regulatory functions if it were subjected to potential insolvency risk, or needed to reduce compensation.”
- 2.7.5. “Combining regulatory and financial institution functions could increase the risk of operational failure.”
- 2.8. In summary, we can see no merit in merging TPR and PPF although continuation of close co-operation, particularly on data issues, would be advantageous.

3. **Is there a good case for bringing FSA and TPR closer together?**

- 3.1. We have no additional points to those covered in the paper.
- 3.2. After due consideration we agree with the conclusion in paragraph 28 that the balance lies in favour of the status quo.
- 3.3. We feel that in the main, FSA regulation deals with individuals and a high volume of (relatively) small transactions and TPR with employers and a substantially lower volume of much larger transactions. It would not be easy to derive a common approach from two such widely separated starting points.

4. **Is there a good case for bringing the PO and the FOS closer together?**

4.1. One way of looking at this is to consider that the PO deals with maladministration and the FOS with mis-selling. Although this is somewhat of an over-simplification it does point to a substantial difference of approach. In our view this is a strong argument for maintaining the existing separation.

4.2. This distinction also applies to the question of the possible transfer of the FOS' personal pension remit to the PO. If such a transfer were made then clarity would be needed around the demarcation between complaints centred on maladministration and those concerned with sales and marketing.

5. **Are any changes to PPF Ombudsman functions or boundaries needed?**

5.1. It is surely too early to offer any comment on the workings of the PPF Ombudsman who, to our knowledge, has not yet been involved in a single complaint. Our view would thus be to leave well alone until sufficient data are available on which to base a considered judgement.

6. **Are any changes to TPAS functions or boundaries needed?**

6.1. The key consideration here is the voluntary nature of the TPAS offering. Any substantial change in remit could pose the danger of TPAS volunteers feeling that they were no longer within their comfort zone, or simply that they were being pushed around, leading to a withdrawal of resource which would leave continuation of the service in doubt.

6.2. We agree with the suggestion that the assumption by the TPR of TPAS' functions would dilute the distinctive core roles of both organisations.

6.3. On the question of TPAS doing more, in particular the resolution through mediation of more PO cases, care must be taken not to over impose workload on a voluntary resource.

7. **FSCS and Pensions Regulator Tribunal functions**

7.1. We have no comment on these topics.

8. **Impact of pensions reforms**

8.1. The shape of the Personal Accounts regime is yet to be decided although early indications are that it will be an occupational pension scheme (principally in order to avoid difficulties with automatic enrolment under the Distance Marketing Directive) and also a Registered Pension Scheme operating under the Finance Act 2004 (as subsequently extensively amended) regime.

8.2. The principal governance task for the Personal Accounts Board will be ensuring that employers supply all the necessary data relating to their employees and then all contributions that result from those data. In our view

the Clearing House, if it operates as originally envisaged, will be best placed for this task as it will have the closest relationship to the data involved.

8.3. The centralisation under the Personal Accounts Board, of the administrative, investment and decumulation functions will minimise the impact on TPR. It will have one scheme with which to deal, albeit a scheme with up to ten million members.

8.3.1. An interesting thought revolves around Personal Accounts and the various levies. Will Personal Accounts be subject to the levies (and why should they not be?) and if they are whence will come the money and will it be within the aspirational 0.3% pa charge?

8.4. We suspect that, in years to come, the greatest impact will be on the Pensions Ombudsman or whatever combined body emerges from this consultation process. This will come as many Personal Account holders reach decumulation stage only to discover that means testing effectively removes a substantial portion of the benefits emerging from the “Government recommended” pension plan into which inertia has led them.

## 9. **Conclusion**

9.1. The pensions industry is still recovering from the “simplification” brought about by the Finance Act 2004 (as amended by the 2005 and 2006 Finance Acts and to be further amended by the 2007 and 2008 Finance Acts) and the additional member security generated by the Pensions Act 2004. This process has left the industry with a strong aversion to change for its own sake. The pensions institutions that are the subject of this review work at least tolerably well and, in the case of the PPF and TPR, are still growing into their responsibilities. Unless there are clear, tangible and practical advantages to be had from tinkering with the current structure our recommendation would be to maintain the status quo.

## 10. **Contact details**

Legal & General would be pleased to elaborate on any of the points made above.

28 March 2007