

NAPF SUBMISSION TO THE PAUL THORNTON REVIEW OF PENSIONS INSTITUTIONS:
EMERGING ISSUES

1. Introduction

- 1.1 The NAPF welcomes the opportunity to contribute to the external review of pensions institutions, being undertaken by Paul Thornton.
- 1.2 The NAPF is the leading voice of workplace pensions in the UK. Our 1300 members provide pensions on behalf of more than 15 million people and have combined assets of around £800 billion.
- 1.3 The consultation paper, published on 7 March 2007, identifies some of the emerging issues around the regulation and protection of workplace pensions. In particular, the relationships between the TPR and PPF, the FSA and TPR and the PO and FOS. Our response sets out the NAPF's overall position, the principles by which we assess the issues, our response to the respective questions raised, our recommendations, and in Annex A, our views on the factors for consideration.

2. NAPF's overall position

- 2.1 We believe that the present regulatory landscape is generally fit for purpose. Nevertheless, we feel there may be some scope for restructuring the boundary between the FSA and TPR; and there may be benefits in providing a single entry/contact point for the various ombudsmen and advisory services.
- 2.2 Our response makes a number of recommendations, these include:
- We do not support bringing the PPF and TPR closer together;
 - We believe the regulation of workplace pension arrangements should be mainly undertaken by TPR and that the boundaries between the FSA and TPR should be redrawn;
 - We think there is a good case for providing a single point of contact for the PO, FOS and TPAS; and
 - We believe a Pensions Monitoring Board (PMB) should be established to monitor the adequacy and sustainability of pension provision.
- 2.3 In responding to the consultation, we have adopted four guiding principles;
- There should be a clear separation between the functions of regulation, compensation and mediation.

- The regulation of workplace pensions should ideally sit with a single regulator, except where there is good reason.
- There should be a simple 'one stop' point of contact to ensure easy access to the mediators and advisory services.
- There should be a consistent approach across the various institutions to the regulation, compensation and mediation of workplace pensions.

2.4 These recommendations are explored in more detail below.

3. Response to specific questions

Question 1: How do we think developments on the international front i.e. changes to European legislation might impact on the review?

3.1 **NAPF RESPONSE:** Changes in European Law will have an impact on the regulation of pensions in the UK, and therefore on the regulatory bodies.

3.2 The NAPF has serious concerns around the potential impact of Solvency II. Occupational DB schemes in UK have the backing of an employer covenant, with the support of the PPF, should the employer become insolvent. Therefore, we do not believe it is necessary for Solvency II to be applied to UK pension schemes. We hope that the regulators of UK DB schemes will fully support our position.

3.3 The review should keep in mind that EU law may require new regulations to be implemented. Looking ahead, these might include the adoption of the Pensions Portability directive and any recommendations that follow on from the ECJ Robbins case.

Question 2: Is there a good case for bringing the PPF and TPR closer together?

3.4 **NAPF RESPONSE:** We do not think the PPF and TPR should be brought closer together. We feel that having a regulator and a compensator as one body would create conflicts of interest.

3.5 As the consultation paper identifies, both organisations are relatively new, and any early organisational change could affect delivery and cause further regulatory confusion. However, we do think both organisations should continue to work closely together and develop further ideas on sharing information. This is an area that appears to work well at present.

3.6 In addition, if as seems appropriate, the TPR is chosen to regulate Personal Accounts, and monitor auto-enrolment in both PAs and exempt occupational pension schemes, it would be unhelpful to bring TPR and PPF together.

3.7 We agree with the PPF view that a merger would be inappropriate and disruptive at a critical time for building confidence in pensions. The PPF is better able to serve its functions as a separate organisation.

Question 3: Is there a good case for bringing the FSA and TPR closer together?

3.8 **NAPF RESPONSE:** We do not support the merging or bringing closer together of TPR and the FSA. Each regulates different sectors, with the FSA having responsibility for a wide range of commercial financial service providers and TPR having responsibility for trust-based employer sponsored pensions and areas of stakeholder pensions. It would be inappropriate to bring such different regulators closer together.

3.9 Rather, the NAPF believes the review should recommend a change to the boundaries between the two organisations in order to bring the regulation of workplace pensions under one regulator. This is especially important given the employers role in the provision of all workplace pension arrangements whether they are trust-based, contract-based or even in the case of the new Personal Accounts scheme.

3.10 The current overlap between the FSA and TPR is complex and the boundaries are unclear for many, particularly in relation to DC schemes. The NAPF agree with comments in the Prudential's submission to the review that employer regulation should be a TPR responsibility as far as administration is concerned, and an FSA responsibility as far as advice to members and potential members is concerned.

3.11 We also agree that greater co-ordination between the two bodies is required. And further sharing of information and consultation activities should become standard practise.

Question 4: Is there a good case for bringing the PO and FOS closer together?

3.12 The NAPF can see no reason to change the functions of the PO and FOS. However, there may be scope to bring the two Ombudsmen under one umbrella organisation. The Ombudsmen have separate responsibilities, and should continue to operate in distinct units. However, we agree that there are resource limitations for the PO that could be overcome by bringing the two organisations together, thereby maximising the resources available.

3.13 We also think TPAS should come under the same umbrella. A significant number of cases are already referred to TPAS, so it would seem sensible to have all three bodies working more closely, in particular by, using a single point of contact. This would ensure that users are directed to the correct organisations at the earliest possible stage and the sharing of relevant data is made easier.

Question 5: Are any changes to PPF Ombudsmen functions or boundaries needed?

3.14 We think it is too soon to consider any changes to the functions or boundaries of the PPF Ombudsmen.

Question 6: Are any changes to TPAS functions or boundaries needed?

3.15 As already suggested we think there is case for including TPAS under the same umbrella organisation as the PO and FOS. There are a number of reasons for this, including;

- Having a single point of contact for advice and mediation would help reduce confusion among users over which organisation to contact in the first instance. Having a single point of contact would ensure that the user is directed to the correct organisation at the outset.
- TPAS already resolves some disputes before they get to the PO, it would make sense for the PO/FOS/TPAS to work more closely together under one umbrella to have in place arrangements for handling the processes more efficiently.

Question 7: Any changes to the FSCS functions or boundaries needed?

3.16 We do not think any changes are required to the functions or boundaries of the FSCS.

Question 8: Are any changes to the Pensions Regulator Tribunal functions or boundaries needed?

3.17 We do not think any changes to the functions or boundaries of the Pensions Regulator Tribunal are needed. Should any changes to the boundaries of TPR arise as a result of this review these will need to be reflected in the functions and boundaries of the Pensions Regulator Tribunal.

4. Pensions Monitoring Board (PMB)

4.1 In the NAPF response to the May 2006 Pensions White Paper, we recommended the creation of a Pensions Monitoring Board (PMB). The primary responsibility of the PMB would be to monitor the adequacy and sustainability of the UK pension system, and provide a triennial report to Government on developments, and any implications for pensions policy. This would not be a policy-making body – this role rests with Government. Rather its remit would be to help Government ensure that the pensions system remains on the course set by the reforms.

4.2 We think much of the PMB's work would be to compile and analyse existing data, but it would also commission additional research topics not covered by the

available data or requiring closer study. A model for this body is the Low Pay Commission which operates to clearly defined objectives and has only 10 employees.

4.3 The analysis carried out by the PMB would take account of non-pension sources of retirement income such as housing wealth, welfare payments and inheritances. On the issues of sustainability, the PMB would need to monitor the sustainability of the pensions system, especially with regard to life expectancy, affordability for public finances and the success or otherwise of private pensions saving. This would include an early warning of any adverse trends and an ongoing review of the need for adjustments in the State Pension Age in light of demographic change.

4.4 We believe this review should recommend the establishment of a Pensions Monitoring Board.

5. Recommendations/Conclusions

5.1 The NAPF sees no reason for bringing TPR and the PPF together, in our opinion they should remain as separate organisations, whilst maintaining a close relationship.

5.2 The NAPF recommends that the boundaries between the FSA and TPR be revisited to ensure that the regulation of workplace pensions is carried out by a single regulator, and our recommendation is that it should be within the TPR's remit.

5.3 We think there should be a central point of contact for the mediator/advisory bodies. This would ensure that any queries are passed to the correct body. It would also help address some of the resourcing issues currently experienced by the PO.

5.4 The NAPF believe a Pensions Monitoring Board (PMB) should be established to monitor the adequacy and sustainability of pension provision.

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ANNEX A

General question: Do we think the factors, listed below, are the key ones, and are there any others we think should be added?

- Encouragement of good pension provision
- Maintenance of confidence in the pensions system
- An effective and comprehensive approach to risks
- Clear accountability and effective governance
- Avoidance of gaps, conflicts of interest or unhelpful overlaps between the various institutions
- Ability to cope with future developments
- Clarity
- Customer Focus (including employers, pension scheme trustees, administrators, advisers and scheme members and beneficiaries)
- Costs and benefits of change
- Control over the cost of levies to payers.

NAPF RESPONSE: We agree with the factors listed above, and we think the list should include two further factors: -

- Under customer focus we think it should include the impact on schemes of any changes to the regulatory environment. By this we mean looking specifically at the cost and benefit if any change in the relation to pension schemes; and
- We also think the list of factors being considered should include analysis of the speed of response and delivery of decisions, looking at the various institution's response rates, identifying where delays occur and why the delays are occurring.