

# **Review of Pensions Institutions**

## **Consultation Paper: emerging issues**

**Responses: by 31 March 2007**

**Paul Thornton  
March 2007**

# Content

<b>Introduction .....</b>	<b>3</b>
<b>Progress so far .....</b>	<b>4</b>
<b>What happens next.....</b>	<b>5</b>
<b>Initial issues emerging.....</b>	<b>5</b>
Is there a good case for bringing the PPF and TPR closer together? .....	6
Is there a good case for bringing FSA and TPR closer together? .....	8
Is there a good case for bringing the PO and the FOS closer together?.....	10
Are any changes to PPF Ombudsman functions or boundaries needed?.....	11
Are any changes to TPAS functions or boundaries needed? .....	11
Are any changes to FSCS functions or boundaries needed? .....	12
Are any changes to TPRT functions or boundaries needed?.....	12
Impact of pension reforms .....	12
Other developments.....	12
<b>How to respond .....</b>	<b>13</b>
<b>Annex A The Institutions .....</b>	<b>15</b>
<b>Annex B Terms of Reference .....</b>	<b>18</b>
<b>Annex C Initial questions.....</b>	<b>20</b>

## Introduction

1. On 16 January the Government announced my appointment to undertake an external review of organisations involved in the regulation and protection of workplace pensions. I have been asked to look at how the responsibilities of the pensions institutions, including the Pensions Regulator (TPR), the Pension Protection Fund (PPF) and the aspects of Financial Services Authority's work (FSA) covering regulation of work based pensions are arranged to ensure that they support existing Government policy, fit with pension reform proposals and with developments in the pensions market.
2. Alongside regulation and protection, my remit also includes provision of advice, dispute resolution and compensation. This involves the pensions functions of the Pensions Advisory Service (TPAS), the Pensions Ombudsman (PO), the Pension Protection Fund Ombudsman (PPFO), the Pensions Regulator Tribunal, the Financial Ombudsman Service (FOS) and the Financial Services Compensation Scheme (FSCS).
3. My terms of reference exclude administration arrangements for the Financial Assistance Scheme (FAS), and I am therefore considering it only to the extent that it impacts on other bodies.
4. I have been asked to have regard to the Hampton principles. The key principles for the purposes of this review are: reducing the number of regulators where possible to avoid duplication of effort and division of responsibility, and enabling a holistic approach to risk assessment.
5. Short descriptions of the remit of all the bodies under review are in an annex to this paper. (Annex A)
6. I have been asked to report the findings of the review and make recommendations to Government in Spring 2007. The Review's Terms of Reference are in an annex to this paper. (Annex B)
7. The context for the review is that the PPF and TPR have now been in operation for approaching two years since their formal establishment under the Pensions Act 2004. In addition, the Government's pension reform plans, particularly the new scheme of Personal Accounts, could have significant implications for the pensions institutions.

## Progress so far

8. The feedback I have received so far indicates that the new Pensions Act 2004 bodies - PPF and TPR - have moved both fast and effectively to respond to their challenges. So far I have seen no evidence to suggest that the current arrangements for distribution of functions between the various institutions in the pensions landscape are not fit for purpose. But there may be some ways in which they could be made more efficient and effective – to provide an even stronger base for dealing with the changing landscape.
9. Immediately after my appointment in January, I set out my initial questions which are in an annex to this paper (Annex C). I put these on the review web pages ([www.dwp.gov.uk/pensionsreform/institutional\\_review.asp](http://www.dwp.gov.uk/pensionsreform/institutional_review.asp)) and contacted a substantial number of stakeholders with a potential interest in this area. During January I also met each of the nine bodies involved in the pensions area, as listed in my terms of reference. I have also consulted with others with a knowledge of the issues. So I have been seeking initial evidence and views from as many as people and organisations as possible, asking them to let me have their initial input by 9 February.
10. I am grateful for the very constructive discussions and written input that I have received so far and I am now able to take the review further. (The written submissions are available on the Review website). The input from stakeholders so far has confirmed that customers of the pensions institutions see the bodies as functioning effectively within their remits, with most proposals directed at the workings of the regulatory interface between TPR and FSA.
11. In undertaking the review, my aim is to consider the best distribution of functions for the foreseeable future, to provide clarity, efficiency and effectiveness and to avoid undesirable conflicts of interest, gaps or unhelpful overlaps in functions.
12. Some key factors that I think need to be considered in weighing up proposals for change include:
  - 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
  - costs and benefits of change
  - control over the cost of levies to payers

\*Customers for this purpose include employers, pension scheme trustees, administrators, advisers and scheme members and beneficiaries.

13. I would value your input during this consultation on whether you think these factors are the key ones, and on any others you consider should be added.
14. There are likely to be significant changes in the pensions landscape over the next few years. In particular one can anticipate the development of longevity hedging instruments and the creation of capital market solutions for transferring pensions risk, and there are already new annuity buyout firms. New 'risk-sharing' designs of occupational pension scheme can be expected to develop. The introduction of Personal Accounts, proposed from 2012, will create fresh regulatory issues and workload.
15. On the international front also, there are developments on the horizon. The European Commission may seek advice in 2008 from The Committee of European Insurance and Occupational Pensions Supervisors (CEIOPS), on the potential implications of Solvency II – the European Union review of the current insurance Directives - for pension funds.
16. I would welcome your views on how these might impact on this Review.
17. The next step is to consult widely on the key themes that have emerged so far in my work. As part of my role, I have been asked to encourage debate and to build consensus on the best way forward, and I am therefore seeking views from a wide cross-section of stakeholders and am publishing the comments I am receiving.

#### What happens next

18. Please let me have your evidence and views by the end of March, so that I can take account of these before I make my recommendations to Government.
19. I appreciate that both the invitation to make initial input and this invitation to respond to consultation involve quite short time periods, but that flows from the timescale for my review.

#### Initial issues emerging

20. Following on from the initial questions I asked, several key issues as I see them have emerged during the first stage of my review. I have accordingly identified three particular questions to focus on during this consultation:
  - Is there a good case for bringing TPR and PPF closer together?
  - Is there a good case for bringing FSA and TPR closer together?
  - Is there a good case for bringing the Pensions Ombudsman and the Financial Ombudsman Service closer together?

These all seem to me to be worthy of careful consideration.

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

21. The key arguments that have been put to me in favour of bringing the two organisations closer together are:

- A single organisation for those affected by pension regulation and compensation would make for simplicity and better accountability, enabling better communications with users about the approach to regulation and compensation, and on the size and distribution of the risk-based levy in relation to overall objectives for scheme funding.
- A single organisation would enable all the risks to pension schemes and their members to be considered, rather than specific consideration of risk to the compensation fund. Having a single body would enable it to take a comprehensive approach to risk assessment, in line with Hampton principles.
- A single organisation would enable clearer responsibility for managing the trade-offs between objectives. Currently entry of pension schemes to the PPF has relatively few consequences for TPR: it is the PPF which makes the payments and raises the levy to finance them. A single organisation would itself have to raise the levy to finance the cost of the schemes which enter the compensation fund. It would therefore have more immediate incentives to consider any alternative to this option. In particular, a combined body would be better able to make the necessary judgements in clearance cases and in setting the risk-related PPF levy, balancing its objectives to both protect members benefits and to protect the PPF.
- The TPR's statutory objective to protect the PPF involves many interactions between the two bodies particularly on funding of DB schemes and clearance of corporate transactions.
- Functions are closely related, with overlaps and potential synergies:
  - TPR's policy on funding and clearance influences the risks posed by schemes to the PPF.
  - Close working between TPR and PPF can be important during clearance applications – currently requiring separate negotiators from TPR and PPF at a time when pressures are intense.
  - The Pensions Act 2004 Section 179 PPF valuation basis is one of TPR's funding benchmarks.
  - The risk based levy and TPR's views of risk need to be complementary; the joint production of the Purple Book shows the shared interests of the two bodies in work on risk.
- The bodies have complementary and overlapping expertise in working with pension schemes at a micro and at a macro level.
- Roles overlap in a range of areas including analysing data, assessing risk of employer insolvency, and collecting levies.
- A single body could deliver cost savings through sharing a range of services including IT, HR, finance and media relations.
- TPR believes that a combined organisation would be better able to fulfil the Government's overall objectives.

22. The key arguments that have been put to me in favour of making no change to the current arrangements are:

- Both bodies are relatively new, as is the structure, set in place by the 2004 Pensions Act, to rebuild confidence in the pensions system. Starting in April 2005, both bodies have made a quick and effective start on developing key powers and functions. PPF made its first compensation payments in December 2006 and is currently collecting its first full risk based levy; TPR has issued guidance on its approach to clearance and funding. 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.
- Having separate bodies enables each to develop its own expertise and focus on its distinctive core functions. Each body has developed a distinctive skill set and culture.
- 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.
- There is potential for real and/or perceived conflicts of interest. Examples include tensions between regulator and creditor roles, and between setting the levy and determining scheme funding policy. Combination would also remove a creative tension – the challenge function inherent where one body (TPR) has a statutory duty to minimise calls on the other (PPF).
  - On the one hand separate bodies enable checks and balances to be transparent, but on the other hand a single body could be well placed to resolve issues internally.
  - 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.
- There would be potential confusion over a combined body's solvency, investment and actuarial strategies. It would be important to ensure through clear communication that these did not become *de facto* norms for pension schemes.
- PPF has no regulatory functions, but has many functions of a financial institution, such as investment management, insurance and compensation administration, with substantial accountability to the pensions industry as levy payers and to scheme members.
  - Combining regulatory and financial institution functions could increase the risk of operational failure.
- The two bodies have succeeded in working together. Close co-operation including a tripartite Memorandum of Understanding, service level agreements and working relationships at a range of levels and on specific projects (for example, the Purple Book) help ensure the interfaces between TPR and PPF work well.
  - It has however required some attention by both bodies to make this work.

- Employers and pension schemes might see such a change as likely to lead to a more risk-averse, regulation-dominated protection regime.
  - TPR have however avoided a prescriptive approach to clearance and funding.
- Introduction of a new system for Personal Accounts and their regulation/ compliance requirements could impact on the capacity of a combined body to take on additional work.
  - Long term resources would need to be recruited, and a PPF role would further increase TPR's span of control over functions.
- There would be transitional costs for schemes to bear via the Administration levy, and management requirements potentially coinciding with significant challenges on introduction of Personal Accounts
  - There could however be longer term savings, and the changes could take effect from an earlier date than introduction of Personal Accounts.
- There is no agreed basis for change – PPF regard a merger as inappropriate and disruptive at a critical time for building confidence in pensions.

23. To help me evaluate these arguments, I would welcome your comments.

- What are your views, experience and evidence?
- What would be the costs and benefits of changes?
- Does the current arrangement, with two bodies, work effectively currently?

24. If the bodies were brought closer together

- what would be the best structure for a combined organisation?
- would all or only some of the functions be brought together?
- how do you think that the introduction of Personal Accounts affects the issue?
- what would be the impact on the other institutions in the pensions landscape?
- could changing TPR and PPF functions impact on the potential for combining TPR and FSA regulatory functions?

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

25. The key arguments that have been put to me in favour of bringing the two organisations closer together are:

- In principle, it may well be logical to make changes, since the boundaries between occupational pensions and other financial savings products are becoming more blurred and more complex over time due to changes in the market.
- The current boundary is complex. It is not however feasible to achieve a simple boundary, even by making changes to it, and hence to provide clarity for consumers.
  - Even if all pensions regulation were combined, there would still be the need to distinguish between different aspects.

- TPR has recently consulted on DC risk, the investment components of which are an example of an area within scope for both TPR and FSA, and where a consistent approach is needed and not currently easy to achieve.
- There appears to be a gap in coverage of regulation and supervision of Independent Financial Advisers advising employers on a transfer between one occupational scheme and another. This is also affecting redress for individual complaints because the Pensions Ombudsman and the Financial Ombudsman Service have no jurisdiction in these cases.
- The trend from DB towards DC schemes and to annuity buy-out may bring a larger proportion of pension liabilities under FSA supervision, although that transition is likely to take a period of many years.
  - However, if that is the trend, it might be appropriate to make regulatory changes sooner rather than later.
- There could be cost savings through sharing a range of services including IT, HR, finance and media relations.

26. The key arguments that have been put to me in favour of making no change to the current arrangements are:

- The arrangement of functions seems to work well in practice. The delineation of boundaries is proving workable and is flexible. The boundaries seem to be understood by TPR and FSA, with, for example, an effective Memorandum of Understanding in place.
- There does not seem to be evidence from any of the pension bodies of consumer confusion to suggest a change is needed.
- Pensions and financial services are substantially different from each other in the UK in their regulatory context, and require a different style of regulation. Though pensions are financial services, it remains sensible to continue currently to regulate them separately. This reflects occupational pension provision being intimately linked to social policy, and the fact that employer-provided pension funds are not comparable with other financial institutions. The employer covenant stands in place of solvency capital; historically pension provision has been a voluntary act by employers.
- It does not seem appropriate to follow other countries where pension fund and insurance supervision is under a shared umbrella, as their pension arrangements typically have a different legal constitution and history.
- If insurance and pension products were under the same regulator there would be more difficulty in withstanding international pressure to adopt the same solvency requirements for both.
  - Solvency requirements are currently evolving with work in development of the Solvency II Directive, and the implications for pension provision are likely to be considered over the next few years.
  - However the particular regulatory structures in place will not in themselves dictate whether or not similar solvency requirements are applied to pensions as to insurance products under European legislation.
- FSA and TPR regulate differing communities. (For example TPR has close links with employers, unlike the FSA).
- Both FSA and TPR have let me know they have currently no appetite for change.

27. I have received comments from some provider and adviser stakeholders on the need for greater clarity on the FSA and TPR boundaries and commending more joined up working.

28. On the subject of TPR and FSA boundaries, I currently feel that the balance lies in favour of the *status quo*: that change in functions - as distinct from joined up working and clarity - does not seem to be a pressing issue. But I would like to receive your comments. The subject may need revisiting in a few years anyway, with the expected move towards greater involvement by FSA in pension regulation, if pensions move away from their historical DB preponderance.

29. What are your views, experience and evidence?

- Do you think that there is a strong case for change at this point?
- What would be the costs and benefits of changes?

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

30. The key arguments that have been put to me in favour of bringing the two organisations closer together are:

- The separation may be a historical rather than an essential one, particularly given that FOS has a remit which extends beyond FSA functions, including its voluntary jurisdiction (in which National Savings and Investments participates) and its forthcoming Consumer Credit jurisdiction (from April 2007).
- I have heard that the FOS has a track record of managing different types of activity, for example it has low unit costs, good case throughput rate, and has successfully expanded its remit. It had originally replaced eight separate complaint handling bodies. It has subsequently taken over the work of three others. I also understand that its pensions cases may be among the most complex it handles. I have heard that the smaller scale of the PO's office can prove a limitation in bringing down the number of investigations in progress, and its workload is not easy to predict. FOS's workload is also not easy to predict but, subject to further analysis, a combination might provide the efficiencies and economies of scale currently unavailable in the PO's office.
- I have heard that there is a need for some redirection of cases between the two Ombudsmen, albeit an effective process seems to exist to pass cases to the correct body. Combination might reduce consumer confusion over which Ombudsman handles which pensions cases, and all investigatory work could be handled by one body. (Both Ombudsmen refer a significant number of cases to TPAS.)
- Involvement of the DWP in the FSA's process for appointment of the lead pensions Ombudsman could enhance the independence of the PO within a combined organisation.
- There could be cost savings through sharing a range of services including IT, HR, finance and media relations.

31. The key arguments that have been put to me in favour of making no change to the current arrangements are:

- If there remains one regulator for financial services and another for occupational pensions, it is also appropriate to have separate Ombudsman services.
- The Memorandum of Understanding between the PO and the FOS appears to be working well; it shows a clear distinction of responsibilities between the two offices and avoidance of possible conflicts of interest.
- Additions to FOS' workload could be to the detriment of focus on its 'core' financial services work.
- FOS currently does not have the in-depth knowledge of pensions held within the PO's office.
  - However there are various ways this could be addressed.
- The provisions are different as to subsequent routes of appeal, and the extent to which determinations are binding, reflecting the distinctive nature of pensions work.
  - However, these could be preserved, or harmonised as considered appropriate, and this could be the subject of more detailed consideration.
- There could be a need for revised governance arrangements.
- A combination could alter the role played by TPAS in mediation of pensions cases, as FOS provides a mediation service of its own.

32. To help me evaluate these arguments, I would welcome your comments on them.

- What are your views?
- If the PO is to remain separate from the FOS, is there a case for giving the PO complete jurisdiction over pensions by transferring the FOS's personal pensions remit to the office of the PO?

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

33. The PPF Ombudsman handles PPF cases (and some FAS cases, though not complaints of maladministration, which are for the Parliamentary Ombudsman.) Is there any reason why PPF (and FAS) cases could not also move to a combined jurisdiction, if this were considered appropriate?

#### **Are any changes to TPAS functions or boundaries needed?**

34. The evidence I have received suggests that TPAS provides a low cost help line and dispute resolution service through its staffing of 500 unpaid volunteers, in addition to its paid staff, handling substantial volumes of queries and resolving pensions disputes referred to it quickly and effectively.

- It has also been put to me that TPAS could do more, and resolve through mediation a number of cases that are currently handled by the PO.

- What would be the implications for TPAS of combining FOS and PO functions. FOS and TPAS both have dispute resolution, customer information and mediation roles, albeit TPAS provides a highly specialized voluntary service in relation to occupational pensions.
- Is there a case for TPAS functions to be taken on by TPR, in order to improve its understanding of member concerns, or would that simply dilute the distinctive core roles of both (as seems to me to be the case)?

### **Are any changes to FSCS functions or boundaries needed?**

35. The discussions and written input do not suggest a need to revise the functions and boundaries of the FSCS. Its role seems clear and fairly self-contained.
- What are your views?

### **Are any changes to the Pensions Regulator Tribunal functions or boundaries needed?**

36. The discussions and written input do not suggest a need to revise the functions and boundaries of the Pensions Regulator Tribunal. Its role seems clear and specific.
- What are your views?

### **Impact of pension reforms**

37. The introduction of Personal Accounts may give a substantial new job to TPR in a few years' time. The extent and nature of possible regulatory requirements is not yet clear, but as this emerges, it is clearly relevant to the most effective future distribution of functions.
- The number of employers and individuals involved would be very considerably greater than TPR is currently concerned with.
  - If the aim is mainly checking on compliance, this may be simpler than some current TPR regulatory roles, but there may be a more complex, risk-based approach.
  - How do you consider that this would impact on TPR?

### **Other developments**

38. In the course of my review so far, I have identified and am aware of a number of wider developments relevant to these issues. They include:
- Developments being mooted in capital markets, such as longevity hedging instruments; capital solutions which do not involve annuity buyout; credit insurance. These would alter the risks carried by pension funds, and by the PPF in underpinning them.
  - FSA's role in regulating pension-based financial products could well increase, for example as a result of annuity buyouts.

- The external deregulatory review which is working to a similar timeline as this review, may propose changes which impact on TPR and other pensions institutions. I am keeping closely in touch with the reviewers.
- The financial capability review, including work by the Thoresen taskforce recently announced by HM Treasury could have an impact on TPAS and other pensions institutions.

41. If there are further topics you think I should consider in my review, or wish to raise do please send me your experience, views and evidence on them.

#### How to respond

42. I look forward to receiving your views and evidence by the end of March 2007.

- It would be useful to alert me as soon as possible to any new points, and to follow up with more detailed comments by the end of the consultation period.

43. Further copies of this consultation paper are available from the review secretariat team. It is also online, alongside further information about the review, at [http://www.dwp.gov.uk/pensionsreform/institutional\\_review.asp](http://www.dwp.gov.uk/pensionsreform/institutional_review.asp)

44. Since I have been asked to encourage debate and build consensus, I plan to publish contributions sent in during this consultation – as in my initial stage of seeking input – so as to broaden discussion and reach a shared understanding of the issues and views on the way forward.

45. Your contributions can be submitted by letter, email, telephone or fax to:

Secretariat to the Review of Pensions Institutions,  
The Adelphi,  
Level 3,  
1-11 John Adam Street,  
London  
WC2N 6HT

Email: [institutional.review@dwp.gsi.gov.uk](mailto:institutional.review@dwp.gsi.gov.uk)

Telephone: 020 7712 2740

Fax: 020 7712 2499

46. It would be very helpful when responding to indicate whether you are responding as an individual or representing the views of an organisation. If responding on behalf of a larger organisation please make it clear whom the organisation represents and, where applicable, how the views of members were assembled.

47. According to the requirements of the Freedom of Information Act 2000, all information contained in the response, including personal information may be subject to publication or disclosure. By providing personal information for the purpose of the public consultation exercise, it is understood that you consent to its disclosure and publication. If this is not the case, you should limit any personal information which is provided, or remove it completely. If you want the information in your response to the consultation to be kept confidential, you should explain why as part of your response, although we cannot guarantee to do this. We cannot guarantee confidentiality of electronic responses even if your IT system claims it automatically.

If you want to find out more about the general principles of Freedom of Information and how it is applied within DWP, please contact:

Charles Cushing  
Freedom of Information  
Department for Work and Pensions  
2nd Floor  
Adelphi  
1-11 John Adam Street  
London  
WC2N 6HT

More information about the Freedom of Information Act can be found on the website of the Department for Constitutional Affairs:  
<http://www.dca.gov.uk/foi/guidance/exguide/index.htm>.

48. Please also get in touch if you have any queries about my review.

Paul Thornton  
March 2007

## **Annex A**

### **Review of Pensions Institutions: the statutory objectives of pensions institutions under review**

This annex describes the role and statutory functions of those institutions covered by the Review's terms of reference. The institutional functions relate to:

- the regulation of occupational and work-based pensions;
- the provision of advice, mediation, dispute resolution; and
- compensation for pensions

#### *Regulation*

#### **The Pensions Regulator (TPR)**

The regulatory body for work-based pension schemes, established under the Pensions Act 2004, which takes a risk-focused approach to regulation. It commenced operations from 6 April 2005; replacing the Occupational Pensions Regulatory Authority (Opra). It is an executive non-departmental public body, accountable to the Secretary of State for Work and Pensions and funded by a levy on each registrable occupational and personal pension scheme. The Regulator has four statutory objectives:

- to protect the benefits of members of occupational pension schemes;
- to protect the benefits of members of work-based pension schemes;
- to reduce the risk of situations arising that may lead to claims for compensation from the Pension Protection Fund; and
- to promote good administration of work-based pension schemes

#### **The Financial Services Authority (FSA)**

The Financial Services Authority (FSA) is an independent non-governmental body, given statutory powers by the Financial Services and Markets Act 2000. It is a company limited by guarantee. The FSA is accountable to Treasury Ministers. It regulates the financial services industry in the UK and is funded entirely by the firms it regulates. The FSA has four statutory objectives:

- to maintain market confidence;
- to provide the appropriate degree of consumer protection;
- to promote public understanding of the financial system – this extends to all forms of pension provision ; and
- to reduce financial crime.

#### **The FSA's pensions role involves -**

- regulating the sales and marketing of personal pensions (including stakeholder pensions) and annuities; this includes the suitability of advice, pre-sale disclosure and firms' financial promotions.
- from April 2007, regulating the establishment, running and winding up of all personal pension schemes, including self-invested personal pension schemes (SIPPs).

- the prudential regulation of firms who provide personal, including stakeholder, pensions and annuities;
- the authorisation and prudential regulation of fund managers who manage pension fund assets; and
- a statutory responsibility to promote public awareness of the financial system, which extends to all forms of pension provision.

*Advice, mediation, dispute resolution*

### **The Pensions Advisory Service (TPAS)**

An independent, non-profit organisation that provides free information, advice and guidance on state pensions and work-based, personal and stakeholder pension schemes. TPAS, which was formed in 1983 initially as a charity, (and previously called the Occupational Pensions Advisory Service,) is a non-departmental public body sponsored by the Department for Work and Pensions. Its services are provided free of charge. As well as giving generic advice and targeted information on pensions, its work involves running:

- a dispute resolution service for private pension scheme members through a national network of pensions professionals acting in a voluntary capacity;
- a public enquiry service for pensions queries through its helpline.

### **The Pensions Ombudsman/ The Pension Protection Fund Ombudsman (PO/ PPFO)**

An independent and impartial adjudicator created by The Social Security Act 1990 and the Pensions Act 2004 respectively. The Ombudsman is an independent commissioner appointed by the Secretary of State for Work and Pensions and funded by levy on pension schemes. The Ombudsman's determinations are final and binding on all parties, subject only to appeal in the High Court on a point of law. The Ombudsman is responsible for:

- investigating and determining complaints of injustice caused by maladministration and disputes of fact or law in relation to decisions made on occupational and personal pension schemes
- investigating PPF reviewable matters and complaints of maladministration by the Board of the PPF.
- hearing appeals against Financial Assistance Scheme decisions.

### **The Financial Ombudsman Service (FOS)**

An independent body, created by the Financial Services and Markets Act 2000, which became operational on 1 December 2001. The FOS is responsible for resolving individual disputes between consumers and financial services firms quickly and informally. Ombudsman decisions are not binding on consumers unless they choose to accept them; decisions are binding on firms. FOS is funded by a levy on financial services companies within its jurisdiction and from case fees, which become payable when chargeable cases are closed. Consumers do not pay to bring a complaint to the FOS. FOS's jurisdiction covers

- all financial services firms authorised by the FSA;

- those businesses who have voluntarily agreed to be covered by the FOS, such as National Savings & Investments.
- from April 2007, FOS will also cover all businesses that have a consumer credit licence from the Office of Fair Trading (OFT).

### **The Pensions Regulator Tribunal (TPRT)**

An independent body established under the Pensions Act 2004. It is responsible for hearing appeals on determinations made by the Pensions Regulator. The Pensions Regulator is bound by the direction of the Tribunal. The Tribunal's functions involve deciding whether to:

- confirm the determination and any order, notice or direction it made;
- vary or revoke the determination and any order, notice or direction it made; or
- substitute a different determination, order, notice or direction.

### *Compensation*

### **The Pension Protection Fund (PPF)**

The Board of the Pension Protection Fund was established by the Pensions Act 2004. It is a public corporation, which became operational on 6 April 2005 and is accountable to the Secretary of State for Work and Pensions. It is funded by a levy on eligible schemes and by taking in the assets of schemes entering the PPF. The PPF has two statutory functions: to hold, manage and apply the funds known as the Pension Protection Fund and the Fraud Compensation Fund. PPF roles include

- to pay compensation to members of eligible defined benefit pension schemes, when there is a qualifying insolvency event in relation to the employer, and where there are insufficient assets in the pension scheme to cover the PPF level of compensation.
- to charge compulsory annual levies on all schemes eligible for the PPF
- to invest the assets of the PPF;
- since September 2005, to manage the Fraud Compensation Fund – to provide compensation to occupational pension schemes that suffer a loss that can be attributable to dishonesty.

### **The Financial Services Compensation Scheme (FSCS)**

The UK's statutory fund of last resort for customers of financial services firms authorised by the FSA. The FSCS, established by the Financial Services and Markets Act 2000, is an independent body which can pay compensation if a firm is unable, or likely to be unable, to pay claims against it. FSCS is funded by levies on firms authorised by the FSA. The FSCS, which became operational on 1 December 2001, protects:

- deposits,
- insurance policies,
- insurance broking (for business on or after 14 January 2005),
- investment business, and
- mortgage advice and arranging (for business on or after 31 October 2004).

## **Annex B**

This annex sets out the terms of Terms of Reference for the Review of Pensions Institutions.

### **Terms of Reference**

#### **Purpose**

- To review how the functions of the organisations set up by the 2004 Pensions Act - the Pensions Regulator and the Pension Protection Fund - fit with the Government's existing pensions policies, its pension reform proposals, and wider developments in the pensions market.
- To consider also how other organisations with responsibilities for the regulation and protection of workplace pensions interact with them on work based pensions issues.
- To make recommendations about the most appropriate future configuration of organisational responsibilities, providing robust governance and the most effective, efficient and affordable arrangement of functions, avoiding duplication and conflicts of interest, in order to deliver Government policy.

#### **Methodology**

- To examine how the functions of the organisations established through the Pensions Act 2004 – the Pension Protection Fund (PPF) and the Pensions Regulator – fit with the Government's pension reform proposals.
- To examine how the functions of further bodies also fit with the reform proposals. This extends to those involved in
  - Regulation of work-based pensions, particularly the Financial Services Authority;
  - Provision of advice, mediation, dispute resolution or compensation for pensions, in particular the Pensions Advisory Service, Pensions Ombudsman, the PPF Ombudsman, Financial Ombudsman Service (in a pensions role), Pensions Regulator Tribunal, and the Financial Services Compensation Scheme (in a pensions role)
- To consider any implications for the coherence of the regulatory structure applied across the pensions market, taking account of the Hampton principles.
- To take account of possible future regulatory developments, including those from Europe and beyond.

- The review will not need to examine the administration arrangements for the Financial Assistance Scheme, as these have been separately examined, with decisions announced in July 2006.
- To encourage debate and aim to build consensus, consulting on emerging proposals for any changes in the way the functions are best configured between organisations.

### **Timing**

- To complete the review, reporting with reasoned recommendations to Ministers by Spring 2007.

## Annex C

This annex sets out the initial consultation questions, published on the review web pages ([http://www.dwp.gov.uk/pensionsreform/institutional\\_review.asp](http://www.dwp.gov.uk/pensionsreform/institutional_review.asp)), with an invitation for contributions by 9 February.

- How you consider each of the institutions under review is currently functioning in its work-based pensions roles, which include regulation, protection, provision of advice, mediation, dispute resolution and compensation?
  - What are the shortcomings, if any, in the present arrangements, including gaps, overlap, duplication, inappropriate conflict of interest or inefficiencies? What are the strengths of the present arrangements?
  - How you consider the interactions are working between the institutions. Is there evidence to demonstrate that the current arrangements on the regulation of work-based pensions and provision of advice, mediation, dispute resolution or compensation work well or do not work well?
- Is there evidence of effective joint working, clear distinction of responsibilities and evidence of possible conflict of interest?
  - Is there evidence to suggest that the current boundaries of responsibilities and number of organisations are confusing to customers?
- What further regulatory developments are key to the configuration of institutional functions, including those from Europe and beyond?
- What suggestions do you have, taking into account of the Hampton principles, to improve the configuration of functions and responsibilities to best deliver effective regulation and protection of work-based pensions, with robust governance, in an effective efficient and affordable way, and most effectively to meet the Government's pensions objectives, encouraging people to save in work-based pensions?
- What is your view of the capital market solutions that are currently being mooted?