

The Council on Tribunals is grateful for the opportunity to comment on the consultation on the Review of Pension Institutions. The Council's interest in the consultation stems from its statutory oversight (under the Tribunals and Inquiries Act 1992) of the operation of some of the bodies affected by the review – namely, the Pensions Regulator, the Pensions Regulator Tribunal, the Pensions Ombudsman and the Pension Protection Fund Ombudsman. The Council's views are set out below.

As to the matters raised in the consultation the Council believes that the review is substantially premature, since a number of the bodies affected by it have only been in operation since 2005, having been established by the Pensions Act 2004. To date, much of the effort of these bodies has focussed on initial policy development, and as a consequence details of the medium/long term volumes and patterns of casework and financial implications remain unsurprisingly unclear. Against this background, the Council strongly advocates adopting a cautious approach to institutional change at this time, and only on the basis of strong supporting evidence, which the Council believes is currently lacking. Another reason for a cautious approach is that it is probably too soon to have a clear picture of where potential efficiencies might lie, or how easily efficiencies could be achieved by co-operative working, or where mergers might lead to internalised trade-offs or where they might lead to potential conflicts of interest. Such judgements will become easier to make once these

bodies are more firmly established, have their policy positions fully in place and have had them tested by actual volumes of casework and the development of caselaw.

The consultation also invites views on whether there is a good case for bringing closer together:

- the Pensions Regulator and the Pension Protection Fund
- the Financial Services Authority and the Pensions Regulator
- the Pensions Ombudsman and the Financial Ombudsman Service.

The Council does not believe that the case has been made for merging the Pensions Regulator and the Pension Protection Fund as this would, in the Council's view, raise some serious questions of principle, including the lack of functional overlap and potential conflicts of interest. Neither does there appear to be a compelling case at this time for merging the Pensions Regulator and the Financial Services Authority. The Pensions Regulator's business is well defined and operates under a quite distinct regime from the insurance-based approach of the FSA. Whilst there may be a degree of overlap in their functions justifying some change in the longer term, for the reasons mentioned above the case for change is not clear at the present time.

The nearest to a good case for possible merger lies in the ombudsman area, where the FOS has a justifiably high reputation for effectiveness and cost efficiency and where the two roles are broadly similar. Whilst it is assumed that any merger could be achieved administratively, it may be more desirable to effect this through legislation.